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Canada. Railways, Canals, and  
Telegraph Lines, Standing Order, 1938

SESSION 1938

HOUSE OF COMMONS

Government  
Publications

STANDING COMMITTEE

ON

# RAILWAYS, CANALS AND TELEGRAPH LINES

## MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

BILL No. 31—THE TRANSPORT ACT, 1938

No. 7

THURSDAY, MAY 19, 1938



### WITNESSES:

- Captain J. B. Foote of the Foote Transit Company, Toronto.
- Mr. W. L. Best, Secretary, Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods.
- Mr. A. Hutchinson, Hall Corporation of Canada, Limited, Montreal.
- Mr. S. B. Brown, Manager, Transport Department, Canadian Manufacturers Association.
- Mr. G. A. Walker, K.C., General Counsel, Canadian Pacific Railway Company.
- Mr. C. E. Jefferson, Freight Traffic Manager, Canadian Pacific Railway Company.

OTTAWA

J. O. PATENAUDE, I.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1938

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ORDER OF REFERENCE

TUESDAY, May 17, 1938.

*Ordered*,—That the name of Mr. Chevrier be substituted for that of Mr. Mulock on the said Committee.

Attest.

ARTHUR BEAUCHESNE,  
*Clerk of the House.*



## MINUTES OF PROCEEDINGS

THURSDAY, May 19, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met this day at 10.30 a.m. Sir Eugene Fiset, the Deputy Chairman, presided.

*Members present:*—Messrs. Barber, Bertrand (*Laurier*), Bonnier, Cameron (*Hastings South*), Clark (*York-Sunbury*), Cochrane, Duffus, Edwards, Emmer-son, Fiset (Sir Eugene), Gladstone, Hamilton, Heaps, Howden, Isnor, Johnston (*Bow River*), MacKinnon (*Edmonton West*), MacNicol, McCallum, McCulloch, McIvor, McNiven (*Regina City*), Parent (*Terrebonne*), Ross (*Moose Jaw*), Stevens, Streight, Walsh, Young.

*In attendance:*—Hon. Mr. Howe, Minister of Transport; Hon. Mr. Guthrie, Chief Commissioner, Board of Railway Commissioners; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners; Mr. W. J. Matthews, Law Branch, Department of Transport.

Bill No. 31, An Act to establish a Board of Transport Commissioners for Canada, with authority, in respect to transport by railways, ships and aircraft.

A brief received from Mr. A. Routhier, who appeared as a witness on May 13, was ordered to be printed into the record.

Captain J. B. Foote of the Foote Transit Company, Toronto, was called. He read a brief condemnatory of the entire bill, elaborated thereon, and was questioned.

Captain Foote retired.

Mr. W. L. Best, Secretary, Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods, was called, and read a brief recording approval of the bill.

Mr. Best retired.

Mr. A. Hutchinson, Hall Corporation of Canada, Limited, Montreal, was called. He read a brief in opposition to the passing of the bill in so far as the provisions thereof pertain to transportation by water. Bulk freighters, he said, should not be deprived of the business they have enjoyed.

Mr. Hutchinson retired.

Mr. S. B. Brown, Manager, Transport Department, Canadian Manufacturers Association, was recalled. He read a brief that was supplementary to the one read on April 28.

Mr. Brown retired.

On May 6, Mr. G. P. Campbell of Toronto appeared on behalf of fourteen steamship companies. To-day a memorandum containing suggested amend-ments was received from Mr. Campbell who submitted it on behalf of these steamship companies.

*Ordered,* That the said memorandum be incorporated in the printed record.



*Ordered*, That the following communications be printed as appendices to this day's evidence:—

1. From Mr. Lewis Duncan of Toronto.
  - (a) Statement asked for by members of the Committee—see page 160 of evidence—showing Province of Ontario Highway Revenue and Expenditure for five years ending March 31, 1937. (Appendix No. 1).
  - (b) Corrections to evidence given by him on May 12. (Appendix No. 2).
2. From Mr. M. J. Patton of Toronto. Corrections in evidence given by him on May 12. (Appendix No. 3).
3. From Mr. S. B. Brown of Toronto. Corrections in evidence given on April 28. (Appendix No. 4).

The Hamilton Chamber of Commerce submitted a suggested amendment respecting Harbour Tolls.

The Committee adjourned until 4 p.m. this day.

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The Committee resumed at 4 p.m., with Sir Eugene Fiset, the Deputy Chairman, presiding.

*Members present*:—Messrs. Barber, Bertrand (*Laurier*), Bonnier, Brown, Cameron (*Hastings South*), Chevrier, Elliott (*Kindersley*), Emmerson, Sir Eugene Fiset, Gladstone, Hamilton, Hansell, Hanson, Heaps, Howden, Isnor, MacKinnon (*Edmonton West*), McCann, McCulloch, McIvor, McNiven (*Regina City*), Maybank, Mutch, Parent (*Terrebonne*), Ross (*Moose Jaw*), Stevens, Streight, Young.

*In attendance*:—Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners; Mr. W. J. Matthews, Law Branch, Department of Transport.

Mr. G. A. Walker, K.C., General Counsel, Canadian Pacific Railway Company, was recalled and heard in rebuttal. Two proposed amendments to the bill were offered. In the course of his examination, Mr. Walker was assisted in supplying information by Mr. C. E. Jefferson, Freight Traffic Manager, Canadian Pacific Railway Company.

Mr. Walker and Mr. Jefferson retired.

The Committee decided to commence consideration, clause by clause, of Bill No. 31 on Tuesday, May 24.

The Committee adjourned until Tuesday, May 24, at 10.30 a.m.

JOHN T. DUN,  
*Clerk of the Committee.*



## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 277,

May 19, 1938.

The Select Standing Committee on Railways, Canals and Telegraphs, met at 10.30 a.m. Sir Eugène Fiset, the Deputy Chairman, presided.

The DEPUTY CHAIRMAN: Order, gentlemen. I have received a telegram from Mr. Routhier, the representative for the province of Quebec who appeared before this committee and gave evidence, informing me that they were sending a factum worded exactly to deal with the points he brought up and discussed here. He asks that it be included in the records of our proceedings. Is that agreeable to you?

(Agreed.)

QUEBEC, May 17, 1938.

### MEMORANDUM OF THE PROVINCE OF QUEBEC

*In re:* Bill 31, "An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships and aircraft. *The Proposed Legislation as to Transport by water—material sections*

#### Section 2—

Subparagraph (f): "licensee" means a person licensed under this Act to engage in transport by water or by air;

Subparagraph (h): "ship" includes every description of vessel exceeding one hundred and fifty tons gross tonnage;

Subparagraph (k): "transport" means the transport of goods or passengers whether by air, by water or by rail, for hire or reward, to which the provisions of this Act apply and "transported" and "transporting" shall have corresponding meanings;

Subparagraph (n): "transport by water" means the transport of goods or passengers for hire or reward by means of ships required to be licensed under this Act.

#### Section 10—

Paragraph 1, The Minister may, subject to the provisions of this Part, license ships to transport passengers and/or goods from a port or place in Canada to another port or place in Canada.

#### Section 11—

Paragraph 1, No goods or passengers shall be transported by water, from one port or place in Canada to another port or place in Canada, either directly or by way of a foreign port or for any part of the transport, by means of any ship other than a ship licensed under this Part.

#### Section 12—

Paragraph 1, This Part shall not come into force on or in respect of, any sea or inland water of Canada until proclaimed by the Governor in Council to be in force on, or in respect of, such sea or inland water.



Paragraph 2, The Governor in Council may by regulation exempt any ship or class of ships from the operation of this Part.

Paragraph 5, The provisions of this Part shall not apply in the case of ships engaged in the transport of goods or passengers:—

- (a) between ports or places in British Columbia;
- (b) between ports or places in Hudson Bay, Nova Scotia, New Brunswick, Prince Edward Island, and the Gulf and River, St. Lawrence *east of Father Point*, or between any two or more places therein;

nor shall this Part apply between any of such ports or places and ports or places outside of Canada.

### *Diversified effect of the proposed legislation as to Provinces other than Quebec*

(1) The Provinces of Alberta, Saskatchewan, Manitoba and Ontario are to be governed by the proposed legislation without any apparent restriction whatsoever.

(2) The Province of British Columbia will be exempt of the operation of the proposed legislation as to its local navigation.

(3) The Provinces of Nova Scotia, New Brunswick and Prince Edward Island will be exempt of the operation of the proposed legislation in two ways:—

- (a) as to their respective local navigation,
- (b) as to their inter-provincial navigation.

## III

### *Peculiar effect of the proposed legislation as to the Province of Quebec*

One portion of the maritime territory of the Province of Quebec *east of Father Point* is placed on a footing apparently equivalent to that of Nova Scotia, New Brunswick and Prince Edward Island which are to be exempt from the operation of the proposed legislation in the manner herein above described.

By necessary implication, the maritime territory of the Province of Quebec situated west of Father Point would fall under the operation of the proposed legislation.

Therefore it necessarily follows that the Province of Quebec would thus be subdivided into two distinct geographic, economic and legislative zones.

## IV

### *Our submission on behalf of the Province of Quebec—Constitutional aspect to be considered*

1. For all of the reasons already advocated so strongly by the representatives of Nova Scotia, New Brunswick and Prince Edward Island, the proposed legislation should be entirely abandoned.

2. If the proposed legislation is not abandoned, the double form of exemption (as to their local and inter-provincial navigation) provided in the Bill in favour of the Provinces of Nova Scotia, New Brunswick and Prince Edward Island, should extend to the *entire* territory of the Province of Quebec, that is east and west of Father Point, as far as the Ontario boundary.

3. If the proposed legislation goes through with any sort of provision dividing the territory of the Province of Quebec in two distinct geographic and economic zones, many vested rights and charters of navigation companies or interests operating all along the St. Lawrence route and within the limits of our Province will be seriously jeopardized, and this without any corresponding advantage to any other form of Canadian interest or enterprise.

4. The right given to the Dominion of Canada, under head 10 of section 91 of the B.N.A. Act, to legislate as to navigation and shipping is not so



sweeping as to remove from the Provinces their own right to legislate as to local works and undertakings (head 10 of section 92 B.N.A. Act) and also generally as to all matters of a merely local or private nature in the Province (head 16 of section 92 B.N.A. Act).

(A) When we refer to section 91 of the B.N.A. Act, we find that head 10 of this same section does not cover the entire field of navigation and shipping:—

(Aa) Head 9 refers to Beacons, Buyers, Lighthouses and Sable Island.

(Ab) Head 11 refers to Quarantine and the Establishment and Maintenance of Marine Hospitals.

(Ac) Head 12 refers to Sea Coast and Inland Fisheries. (The said Fisheries presuppose use of small ships and therefore a certain form of navigation). And more important is:

(Ad) Head 13 referring to Ferries between a Province and any British or Foreign Country or between two Provinces. (This, by implication, leaving the door wide open for the Provinces to legislate as to ferries, navigating or plying within the limits of a Province).

(B) The sub-paragraph (a) of head 10 of section 92 of the B.N.A. Act, by implication very clearly provides that local works and undertakings in the form of lines of Steam or other ships... and other works and undertakings moving only within the limits of a Province and which do not connect this Province with any other or others of the Provinces or which do not extend beyond the limits of the said Province must necessarily fall under its exclusive jurisdiction.

(C) In support of this exclusive right of the Provinces to legislate in matters of a merely local or private nature, more particularly as to navigation, we may here refer to the following authorities:—

(Ca) In 1877, the Court of Queen's Bench, Montreal, in a case of *McDougall vs. The Union Navigation Company*, (Vol. 21 Lower Canada Jurist, Page 63) decided that "the Provincial Government has power to incorporate by letters patent a company for the purpose of navigation within the limits of the Province."

(Cb) In 1887, the Court of Queen's Bench, in a case of *La Compagnie de Navigation de Longueuil vs. City of Montreal & al.*, (reported at Montreal Law Reports, Queen's Bench, Vol. III, Page 172,) Held: (affirming the judgment of Loranger, J., M. L. R., 2 S. C. 18):—

"The Acts 37 Vict. (Q), ch. 51 and 39 Vict. (Q), ch. 52, in so far as they authorized the levying of a tax upon ferry-boats, including steam-boats, carrying passengers between Montreal and places distant not more than nine miles, are not ultra vires of the local legislature, ferries within a province being a subject of exclusive provincial legislation, and being also a matter pertaining to municipal institutions and of a local nature in the province, and, moreover, the power to tax ferry-boats being possessed by the city of Montreal before Confederation."

(Cc) The following year, in the same case, the Supreme Court of Canada, (Vol. 15, Supreme Court Reports, Page 566) held; affirming the judgment of the Court of Queen's Bench, Montreal, "that the Provincial Legislation was intra vires." Judge Fournier, one of the judges sitting on the Bench of the Supreme Court at the time says: (at page 574 of Vol. 15, S. C. C.): "Une traverse du genre de celle dont il s'agit est certainement un sujet de nature locale ou privée tombant sous le pouvoir de la législature provinciale."

(Cd) In 1896, The Supreme Court of Canada, in a case of *Dinner & al., vs. Humberstone* (Vol. 26, Supreme Court Reports, page 252) decided as follows: "The authority given to the Legislative Assembly of the North-west Territories, by R. S. C. c. 50 and orders in council there-



under, to legislate as to 'municipal institutions' and 'matters of a local and private nature' (and perhaps as to license for revenue) within the Territories includes the right to legislate as to ferries."

(D) In view of what has just been stated it seems to us manifest that section 10, paragraph 1 and section 11, paragraph 1 of Bill 31 in so far as they will be made to interfere with local navigation (as distinct from inter-provincial navigation or foreign navigation), will be ultra vires of the legislative powers of the Dominion.

Even if this view were not certain but only doubtful, the fact would still remain that no advantage can be derived by the Canadian Parliament nor Canada as a whole in pressing forward a legislation possibly ultra vires, which is unavoidably litigious by nature and is bound to have a disturbing effect on the maintenance of peace between the Provinces and the Dominion.

## V

### OUR CONCLUSIONS

Therefore on the whole, we submit:—

1. that the proposed legislation should be abandoned all together;
2. that if the proposed legislation is not abandoned, the entire territory of the Province of Quebec should at least be declared exempt from its provisions and this to the same extent and in the same manner as presently provided in favour of Nova Scotia, New Brunswick and Prince Edward Island;
3. that furthermore, no attempt be made by the Dominion to, directly or indirectly, invade any one of the exclusive rights reserved under section 92 of the B. N. A. Act to Quebec and to all other Provinces.

ADOLPHE ROUTHIER, K.C.

*For the Attorney General of the Province of Quebec.*

The DEPUTY CHAIRMAN: The next order of business this morning is to hear Captain Foote, of the Foote Transport Company.

Captain J. B. FOOTE, President of the Foote Transit Company Limited, called:

*By Hon. Mr. Howe:*

Q. Who are you representing here this morning?—A. The Foote Transit company and other small companies.

Q. What are their names?—A. The Union Transit Company Limited and the R. A. Campbell Fleets of Montreal; vessels identified with the International Waterways Navigation.

Q. What tonnage would that represent, roughly?—A. In a matter of gross tonnage our five ships are about ten thousand, and Campbell's fleet in my judgment would be perhaps twenty thousand.

Q. About what percentage of the whole would that be?—A. I did not figure that out.

Hon. Mr. HOWE: All right.

*By Mr. Howden:*

Q. That is the average tonnage of the vessels?—A. No, the five ships in our fleet, the Union Transit Company, altogether, is 10,000 tons, and the other fleet about 20,000 tons.

Mr. HOWDEN: Thanks.

[Captain J. B. Foote.]



Hon. Mr. Howe: That is the total.

Mr. Howden: Yes.

The DEPUTY CHAIRMAN: You may proceed, Captain Foote.

The WITNESS: With your permission, gentlemen, I shall read my brief.

### RE: BILL 31—THE TRANSPORT BILL

Since aboriginal man first found that a log would float and fashioned into a dug-out, would transport him and his possessions from one point to another by water, no cheaper method of transportation than by water, has ever been developed by man.

The Great Lakes of North America with their connecting waters comprise an area of about 100,000 square miles. They are jointly owned by the Dominion of Canada and the United States, being subdivided by an imaginary line into about two relatively equal areas of ownership.

(I would say that in the United States there is a slightly larger area of ownership.)

The volume of commerce transported each year in a period of about 240 days from April to November, amounts to many millions of tons and heretofore none of the commodities so carried have been subject to rate regulation in Canada, and if at all in the United States only in a very modified and corrective way.

It is proposed that Bill 31 shall set up a Board of Transport Commissioners who would have broad powers to, at their discretion, license ships and regulate and control freight rates on many commodities which now enjoy unrestricted competitive rates.

Having regard to such proposed regulation, it is accordingly urged that the Bill in its entirety be condemned.

*By Mr. MacNicol:*

Q. Condemned?—A. Condemned.

Specifically, it should be condemned in that section 2—subsection "E" provides for the exemption of certain goods in bulk viz: Grain, ores and minerals, sand, stone and gravel, coal and coke, liquids, pulpwood, poles and logs.

The goods hereafter specifically enumerated would be subject to tariff rate regulation:—

Iron and steel commodities, flour and processed grain products, newsprint and woodpulp, sugar, naphtha and fuel oil in drums, lumber, timber and bill stuff, and many other processed commodities.

These goods are generally treated by the shipping trade as bulk cargo commodities.

Subsections 5, 6, 7, 8 and 9, in so far as it would affect the licensing of ships should be condemned.

Part 2—section 10—with respect to the licensing of ships and also section 11 correlated should both be condemned.

Section 10—subsection 6—with respect to no licence being given to a ship other than a British ship imported into Canada and being more than ten years old is superfluous, as the Minister of Customs can now impose a prohibitive duty against the importation of such a ship into Canada.

*By Hon. Mr. Howe:*

Q. Just stop there. How can you do that?—A. Send down an appraiser to decide on the value of the ship.

Q. Are the appraisers paid to find fictitious values on foreign ships, do you suggest that?—A. I would not think so.



Q. How could he impose a prohibitive tariff on an old ship?—A. Well, I think they could arrive at a figure appropriate by dividing the present-day cost, less depreciation.

Q. I don't think they could under the Act. They are bound to find the true value of the ship itself, which is usually interpreted as its ordinary selling price.

*By the Deputy Chairman:*

Q. What would the rate of duty be?—A. It would be from 25 to 35 per cent, I think. I am not sure on that point. I believe it is not less than 25 per cent.

*By Hon. Mr. Stevens:*

Q. Your point is that under the present law, the Customs Act, the minister has the power to deal with importations by fixing whatever rate of duty he wishes to?—A. I laboured under that impression. I am subject to correction.

Hon. Mr. STEVENS: I think you are right.

Hon. Mr. HOWE: He didn't say that, he said the minister under the Customs Act has the power to regulate—which, of course, is absolute nonsense.

Hon. Mr. STEVENS: I don't care what way he put it; you said, as a matter of law—

Hon. Mr. HOWE: He said, as a matter of law that could be done, and that is not so.

The WITNESS: I think the point is being cleared up. There is no question about that.

Section 12—subsection 3—Referring to the extension of the Board's authority to extend the application of this part to transport by ships from a port in Canada to ports and places outside of Canada, should be condemned as it could probably not be enforced on account of affecting International Treaty obligations.

Part 5—Section 35—should in its entirety be wholly condemned as the provision would enable certain forms of transport to compete successfully against water transport in that for any agreed period such carriers might quote agreed charges substantially lower than the special and/or standard tariffs. These agreed charges would be quoted for divers reasons and might militate and be harmful to one shipper while favouring another, and that being so it is unfair in principle and worthy of condemnation.

This Bill in no way presumes to regulate or control motor vehicle transport, which throughout the country is highly competitive and prejudicial to steam and electric railway transportation.

No comment is offered with regards to Aircraft transportation as it does not appear this form of transportation is competitive with Lake Shipping.

The Bill should also be condemned in that it is prejudicial to the transportation of goods by water from the east and west coast of Canada and vice versa via the Panama Canal as tolls or rates are proposed to be regulated.

Finally, as the Bill cannot serve any good purpose and specifically on the points above enumerated, is harmful to Lake Shipping interests and should therefore be condemned.

FOOTE TRANSIT COMPANY, LIMITED.

(Sgd.) J. B. FOOTE, *President*.

UNION TRANSIT COMPANY LIMITED.

*Manager.*

*By Hon. Mr. Howe:*

Q. You don't approve of it?—A. I certainly do not.

[Captain J. B. Foote.]



*By Mr. McIvor:*

Q. In other words, you do not wish to come under the bill at all?—A. No, sir.

Q. It is all bad?—A. The lake shipping interest did not ask for it.

Mr. McIvor: Thanks.

The WITNESS: If I might supplement my brief with a few remarks, some of you come from the west where transportation and shipping is a matter of great concern. Well, since the day when the aboriginal first man found that a log would float, and then the aboriginals of the South Sea islands found that by affixing a few palm fronds to the bow of his log he could go sailing along—gentlemen, that was the day when the ultimate in water-borne transportation was born. It is a far cry from that distant day to the present when on the Great Lakes we have steamers of from 10,000 to 12,000 tons; where we can go to any lake area—say Ashtabula, Cleveland and so on—those American ports—and take coal for the railways to the head of the lakes, to Fort William—that is a distance of 800 miles, gentleman—for 1½ cents a 100 pounds, or thirty cents a ton. American ships get forty-five cents a ton and they haul but a short distance farther, to Duluth. At Fort William we turn around and load a cargo of grain, perhaps 300,000 or 400,000 bushels on the basis of five cents a bushel through rate to Montreal. We deliver that grain at Port Colborne, a trans-shipping point.

*By the Hon. Mr. Howe:*

Q. At how much?—A. On the basis of five cents a bushel through to Montreal.

Q. It is my understanding the rate is five and three-quarter cents.—A. It is to-day. I will carry it year in and year out for five cents, and be pleased to get it. I do not refuse more than I have to. Supply and demand is the factor in the rate to-day, and the railways are enjoying a very little percentage of the business at the present time.

*By Mr. MacNicol:*

Q. Did I understand the witness to say he would carry wheat— —A. From Fort William—

Q. —for five cents a bushel?—A. This year and next year, yes, under existing conditions and the conditions of labour as they are to-day.

*By Hon. Mr. Howe:*

Q. You had better wire Winnipeg. That is quite an offer.—A. It has been made before. I do not think they would take me up. There is nothing coming out of Winnipeg except a little that is in American boats.

*By Mr. MacNicol:*

Q. Where is the head office of your company?—A. 64 King Street, east, Toronto.

Q. That is a good city in which to have your office.—A. Thank you. I maintain that water transportation has any other means of transportation beaten to-day, as it always had.

In the past three years, I have carried a lot of flour from the head of the lakes. You western members have 150 mills out there, six or eight of them big millers, big exporters; and I would like to carry on without any restraining restrictions. I would like to have the privilege of carrying flour from Fort William and Port Arthur to Montreal, Sorel, Three Rivers, Quebec and Riviere du Loup, and I do not want it tied down to any restricted rates.



*By Mr. McIvor:*

Q. Have you any agreed rates with other shipping companies?—A. On grain at the moment we have, yes, sir, including the railways.

*By Mr. Johnston:*

Q. What is the difference in charges between one hundred pounds of flour coming east and one hundred pounds of wheat between the same points?—A. The same.

Q. With all shippers?—A. I do not know. I have not quoted any flour rates this season. I believe the lake and rail rate is  $17\frac{1}{2}$  cents per 100 pounds.

Q. For flour?—A. Yes, sir, from Fort William to Montreal. That, of course, includes all handling charges.

Q. What is it for wheat?—A. We start it from Fort William, lots of it, for four cents a bushel.

*By Mr. Howden:*

Q. You carry flour on the lakes for the same rate as you carry wheat?—A. Relatively. It is not a great deal higher, commensurate with the possible loss on flour.

*By Mr. Johnston:*

Q. Do the railways carry it for practically the same?—A. The rail rate two years ago was 15 cents. My rate was 15 cents less the handling charges.

*By Mr. Heaps:*

Q. Would the witness tell us what tonnage he represents here this morning?—A. I represent some of the smaller companies, five companies that I am directly interested in.

*By Hon. Mr. Howe:*

Q. You have one company and you represent four others?—A. Yes.

*By Mr. Heaps:*

Q. What is the tonnage represented by the companies you represent?—A. Considering the companies I manage or of which I am president, I represent about 10,000 gross tons.

Q. What is the amount of tonnage now operating on the great lakes?—A. In Canada?

Q. Yes.—A. I can give you that accurately, if you want it.

Q. Yes.—A. It will take a little time. The Canadian fleet on the great lakes is represented by 244 vessels, aggregating a gross tonnage of 604,472 tons.

Q. You represent 10,000 out of that?—A. Yes. I am one of the little fellows.

*By Mr. Edwards:*

Q. Those are the ones we want to protect. I am just reading your brief casually, but one of the principal objections you have is to regulating or licensing your ships and making them run on a regular schedule between certain ports. You want to be free to tramp wherever you like?—A. Yes, to let my space to whoever I care to deal with, and not be forced into a position where I would have to take business whether I wanted it or not. In other words, to be more or less of a private carrier than a common carrier.

Now, Mr. Chairman, if I may carry on, what has the government done for lake shipping? Not very much. We have our lighthouses, and they have

[Captain J. B. Foote.]



lighthouses in the United States of America. Ships of all nations are free to travel up and down our waterways paying no more tolls than we do through our canals.

*By Mr. Heaps:*

Q. Who built the canals?—A. The Dominion of Canada.

Q. Do you know how much it cost them?—A. No, but the Department of Statistics or the chief engineer of the Department of Railways and Canals can no doubt give it to you. I can say this, the Welland canal is reputed to have cost one hundred and twenty-five or thirty million dollars. It is a fine engineering project; I admire the mind who conceived it; it is a beautiful thing, but, in so far as it being a factor in the commerce of this country is concerned, except as it affects Ontario—well, in 1909 I carried wheat at five cents a bushel, as I say I will carry it to-day, and from 1909 to 1914 and 1918, the commerce of the country came down the old Welland canal.

Q. You said a moment ago that the government had done nothing for shipping, and I understand from figures given recently, and I am subject to correction—perhaps the Minister will correct me if I am not giving the proper figures—it costs yearly for the maintenance of the canals and the charges on them somewhere about \$15,000,000. Am I correct, Mr. Minister?

Hon. Mr. HOWE: I would not think it would be that much. But that is primarily for the good of shipping. If that was not involved, you could not carry wheat for five cents a bushel. Incidentally, the Welland canal cut the carrying charges on wheat from the head of the lakes to Montreal almost in half.

*By Mr. Edwards:*

Q. Captain Foote, you will agree that the Welland canal is simply a part of a larger scheme which is contemplated for some time in the future?—A. Yes.

Hon. Mr. HOWE: Incidentally, I might say that Canada is the only country in the world where there have been free lights given to shipping. We spent something over one million and a half dollars to install and maintain free lights for shipping.

The WITNESS: I cannot conceive that the United States charges their ships anything for the magnificent lighting system which they have.

Hon. Mr. HOWE: They charge their ocean ships, and there are light dues in every port.

The WITNESS: Yes, but on the great lakes I am quite satisfied that the United States ships are as free as ours. We pay for inspection fees to the very efficient department, and I think what we pay should be sufficient to make it self-supporting for the service.

A little more on the Welland canal. As I say, during the war years, we handled the commerce of the country down through there. It was opened in 1931. Prior to the opening of the Welland canal, the elevator at Port Colborne, a government property, was always a good earner. The government of the day built a fine elevator at Prescott, and I do not think it has ever been full. I think the department will agree with me that it has created a deficit every year. Co-incident with that, two other companies built elevators, one at Toronto and one at Kingston. They also had ships affiliated with them and they carried their grain away from these elevators, privately owned elevators, whereas the government elevator, I imagine, is carrying pretty light. I will say this, that the Welland canal was a factor in our local trade, much to the detriment of the railways. These big ships can come in and unload at the side of a dock and motor trucks can come along, load, and deliver coal around Toronto, and I presume within an area of one hundred miles of Toronto. The same thing to Hamilton. That business is lost to the railways. And that is what the Welland canal did in that respect.



The present conditions of lake traffic are fairly good, for the simple reason that the United States of America, the corn-growing states, had, I think, the second best crop in their history. The world markets want it. At 60 cents a bushel in Chicago they can afford to buy it. England wants it. I do not know what other countries will want it. But at the moment we are taking out of Chicago and Milwaukee millions of tons of grain, whereas a year ago we were carrying Argentine grain into that territory.

Let me read an extract from last night's Toronto Telegram. I do not know if this is correct, but you can take it for what it is worth:—

Transfer of a quarter-million bushels of export corn from the freighter F. H. Robbins to railway cars bound for Montreal and Quebec, where ocean bottoms are waiting, brought the total so handled at Goderich in the last four days to 1,000,000 bushels.

Two million more bushels are expected from Chicago and Duluth in the next week or ten days. The Robert L. Ireland and Charles Heband are making a second trip, with 350,000 bushels each. The J. P. Reis is carrying a similar load. The Colonel Pickand, a 600-footer, is bringing nearly half a million bushels. All are American boats.

Twenty freight trains, loaded with this corn, have already left Goderich over C.N.R. and C.P.R. lines. Quite a number of men have found temporary employment. Corn crop failures in Argentine and Australia, coupled with the prevailing low price, 60 cents a bushel, are given as reasons for the demand in England and Europe. Local elevator executives say they do not know the ultimate destination of the grain.

*By Mr. MacNicol:*

Q. Did the witness say that was from the Toronto Telegram?—A. Yes, sir.

Q. That must be correct, then.—A. Incidentally, if any of you western members have never seen the Welland canal and the manner in which we bring the grain down, I would be glad any week-end you could come to Toronto to take you over by motor to see the canal.

With respect to the present situation, I really think we are almost around the corner.

*By Mr. Howden:*

Q. Almost what?—A. Almost around the corner, as far as the depression goes. This corn crop coming from the United States, as it is, is a boom. I think the Minister will agree with me in that respect. Our elevators are all doing business and we are off to a good start and it looks to me as though it will be sustained. I think this stuff will keep coming until our own crop is ready to harvest, which I devoutly hope will be at least 500,000,000 bushels of good grade wheat, also that there will be an export market for it. When you have that, our troubles will cease.

Let me say that in 1928—I am still talking of the Welland canal—the banner year in our Canadian grain shipping trade, if my memory serves me correctly, about 200,000,000 went through the port of Montreal or through the St. Lawrence ports. Buffalo got 200,000, so that the shipping was equally divided. The point I want to make is that that old Welland canal was handling the commerce of the country without let or hindrance, and we got 212,000,000 bushels between ourselves and the railways at the Georgian Bay ports.

I really think, gentlemen, that if we have what we devoutly hope for, a good crop in the west and an export market, we will not need any shipping regulations.

I am an old man, I am reaching the end of the road, I have been 48 years in the shipping business and, for what it is worth, I give you my knowledge. By

[Captain J. B. Foote.]



the grace of God and the kindly and careful consideration of the members of the committee to this shipping bill, I hope to carry on for two years more when I will lay the burden down.

*By Hon. Mr. Stevens:*

Q. You are representing the small companies?—A. Mr. Stevens, I will go so far as to say that there is not a ship owner on the list enumerated—I will name those owners for you, because I am in the hook-up. There is the Pattersons Steamship company—

Q. You don't represent them?—A. I am affiliated with them.

Q. I was advised that you did not represent them here. I do not know whether my advice is wrong or whether your statement is wrong?—A. If I read that document there (pointing) I do represent them. I am not reading it. I will say this, however, Mr. G. P. Campbell who appeared before this committee represented myself in company with all these others. What he said went for us too; and I think what I say this morning will be accepted by the managing-owner or president of every one of that committee. If he does not we will know the reason why.

Q. Yes; what I was after was, is that your own view?—A. Yes, sir.

Q. You are simply a small operator?—A. Yes, sir.

Q. You operate a number of small ships?—A. Yes, sir.

Q. At the present time you operate free of any interference in respect of regulation, or rate fixing or anything of that kind?—A. Absolutely, we have obeyed the common law of the country and done business.

Q. Of course, your chief business is the movement of cargo from the head of the lakes to Montreal, eastern bound?—A. Yes, sir.

Q. On your return cargoes your practice is to pick up a cargo or part of a cargo or shipment to take back with you, isn't it?—A. Yes, sir.

Q. Would it adversely affect your business if this bill passes and you are compelled, in order to operate, to get a licence; will it adverse your opportunities to secure return cargoes?—A. Yes, sir, it will.

Q. Would the obligation to register your rates with the transport board interfere with your ordinary business operations in securing cargoes in any way?—A. Well, it necessitates the putting in more or less machinery; in having tariff sheets and tariff clerks and added expenses for something I could handle intelligently. I know whether a cargo is going to yield me a profit or not. In the past 11 years on the Great Lakes only one major Canadian company has gone into receivership, and the president of that company told me that he had overbuilt his tonnage.

Q. Tell me this; when you secure a return cargo what is your common practice in securing that cargo?—A. From my point in Toronto I usually contact the possible shipper by telephone or refer it to my agent in Montreal to find me a return cargo.

Q. What do you carry in the shape of return cargo?—A. Last year I carried some sulphur, some iron, pulp, coal—Welsh coal, all kinds of it to Toronto, and all kinds of coal to the head of the lakes; and concentrates, and one thing and another. Those are the five commodities I recall off-hand. If there were cargoes of newsprint offered to me I would be glad to carry them, if it was a cargo—I do not want two cars.

Q. If a Montreal shipper had a cargo of say Welsh coal, or any other cargo, for Toronto or some other intermediate point, would you take that?—A. Yes, sir, I would gladly do that because it employs my ship profitably. In other words, it balances my cargo on the grain down to carry westbound cargo. We all know that if a boxcar on the railway is loaded both ways it is really earning more than if it is only loaded one way. That is axiomatic.

Hon. Mr. Howe: Any of the commodities you have mentioned so far are excluded from the provisions of this bill.



The WITNESS: Well, they are not. Then, I had some steel last year—

*By Hon. Mr. Stevens:*

Q. Did you ever pick up any steel or farm implements or things of that character at Hamilton or some of those points?—A. No. I have “laid off” of the Hamilton farm implements because I figured that was pretty well in the hands of a big shipper who had had it for years, and for that reason I did not presume to encroach on the business.

*By Mr. Howden:*

Q. In your judgment will the adoption of this bill increase the rates?—A. Well, I see no other logical reason for introducing this bill than increased rates.

Q. Then, your answer is that it will increase the rates?—A. It will increase rates.

Q. On what basis, or by what means?—A. Especially on packaged freight stuff which is now free to me, if I want to come along and quote on a few cars. A business representative of one of the shipping companies told me here—he is a man who has 25 ships in the trade and 50 other ships affiliated with him—and he told me that the results of this bill would be that there would be a virtual monopoly on westbound package freight. Now that you have raised the question, there is a young man named Calvin—an honoured name in the shipping service—who wants to engage in the carriage of goods—he is not here to-day—I do not hold any brief for him. If the bill goes through I can't see where Mr. Calvin can possibly be established in the trade.

*By Hon. Mr. Stevens:*

Q. A moment ago you said that you could become a common carrier?—A. Yes, sir.

Q. Do you mean by that that you would be compelled to take cargoes, for instance supposing your ship was empty at Montreal and there was a cargo offered at a rate that you had filed, with say to a Georgian Bay board, would you be compelled to take that?—A. I should so think. As a common carrier if I had space in my ship and had a tariff I would have to carry that cargo whether I wanted to or not.

Hon. Mr. HOWE: But the bill does not make you a common carrier.

The WITNESS: If I come under the bill I will be a common carrier.

Hon. Mr. HOWE: Even as a bulk carrier you say that you are a common carrier?

The WITNESS: I believe I become one under this Act.

Hon. Mr. HOWE: There is a technicality in the bill that provides that we can exclude you. It was never the intention to make bulk carriers common carriers.

The WITNESS: I want to preserve that right I now have—

Hon. Mr. HOWE: You mean, you want to preserve the right to do exactly what you please. Everybody wants to do that.

The WITNESS: I want to preserve my right to keep within the common law—yes, sir.

*By Mr. Howden:*

Q. Then you think that under the provisions of this bill you will be compelled to adopt rates which will be higher than those at which you are able to transport freight at the present time?

[Captain J. B. Foote.]



Mr. McIVOR: You mean, lower?

Mr. HOWDEN: No, higher; everybody believes that we are going to have a higher rate, but nobody is able to tell me why.

Hon. Mr. HOWE: Nobody can tell why?

Mr. HOWDEN: I have talked to a dozen people in this committee and not one can explain to my satisfaction why rates will be higher.

Mr. JOHNSTON: Maybe the minister could answer that question.

Mr. HOWDEN: I do not care who answers it so long as I get an answer to it.

The DEPUTY CHAIRMAN: We are dealing with one witness at the present time.

Hon. Mr. STEVENS: Up to the present we have not adopted the bill as a committee.

Mr. HOWDEN: I submit, Mr. Chairman, that it was a fair question to ask the witness. Possibly he can give me the explanation.

The WITNESS: I will answer it in this way—

The DEPUTY CHAIRMAN: Let the witness answer, please.

The WITNESS: It might lessen my sphere of operation and that puts my competitors in a preferred position to demand higher rates. If I cannot meet any—freely quote you on your commodity, legally quote you the rate that I am disposed to quote and which I believe will be profitable for me—if I am precluded from doing that—

*By Hon. Mr. Howe:*

Q. Where are you precluded?—A. Under the licensing, and the regulations.

*By Mr. Howden:*

Q. Will you not all be on exactly the same level in that respect?—A. Oh, well, there are other features in the bill as to whether or not the commission can determine the rate—whether you get a licence—whether they will give you a licence—it is entirely within their province to decide that.

*By Mr. Isnor:*

Q. If I remember rightly you told us that you represent something like 10,000 tons?—A. Yes, and five ships.

Q. And out of a total of 604,000 tons of cargo space that amounts to 1.5 per cent?—A. Yes, sir.

Q. How many ships are you operating?—A. I might give you the number—

Q. In your own fleet?—A. There are five ships.

Q. And what is the tonnage?—A. 2,000 tons each.

Q. Is that cargo capacity?—A. Yes; it is a smaller amount.

Q. Are your ships registered with the Department of Transport?—A. No, they are British registered ships, over in Great Britain.

Q. I see. I want to get the difference between the cargo tonnage and the registered tonnage; what would that represent?—A. The gross tonnage of a ship. Tonnage is tonnage. I will try to explain that to you in as simple a form as possible—

Q. The gross divided by two gives you the registered tonnage?—A. Roughly, it will.

Q. Then, your ships would be 1,000 ton ships as far as the carriage of goods is concerned?—A. Not the registered tonnage, the tonnage dead weight. I am 2,800 tons per ship.

Q. 2,800 tons per ship, that would be 1,200 to 1,300 tons net?—A. Yes, sir.

Q. Then, registering with the Department of Transport you would cut



that in half again, if I remember rightly?—A. I think the Department of Transport take cognizance of both the gross and registered tonnage for records and for the purpose of the identification of the ship.

Q. What I am anxious to establish is the exact registered tonnage as it would appear in the records of the Department of Transport so as to be able to make comparisons with other ships. To divide your present tonnage by four would give the tonnage as registered at the Department of Transport; am I correct in that?—A. The gross registered tonnage record of these boats, with the Department of Transport, would be well under 2,000 tons each vessel. The net registered tonnage, in my recollection, is about 1,100 tons for each vessel.

Q. About 1,100 tons?—A. Yes, sir.

*By Mr. McIvor:*

Q. Your supposition is that if the rates go up you will not get the carrying to do?—A. I would not say that—

Q. If the rates go up you are in a better position than before.—A. If the rates go up I may be eliminated from competing in this field of the business.

The DEPUTY CHAIRMAN: Thank you very much, Captain Foote.

The Witness retired.

The DEPUTY CHAIRMAN: Next on the list is Mr. W. L. Best representing the Railway Transportation Brotherhoods.

W. L. BEST, Secretary, Dominion Joint Legislative Committee, Railway Transportation Brotherhoods, called:

The DEPUTY CHAIRMAN: Do you want to read your brief, Mr. Best?

The WITNESS: Yes, Mr. Chairman.

Memorandum Submitted on Behalf of the Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods Covering House of Commons Bill 31 Entitled "An Act to Establish a Board of Transport Commissioners for Canada with Authority in Respect of Transport by Railways, Ships and Air Craft".

*To the Standing Committee on Railways, Canals and Telegraph Lines.*

MR. CHAIRMAN AND GENTLEMEN,—Concerning Bill 31 entitled "An Act to establish a Board of Transport Commissioners for Canada with authority in respect of transport by railways, ships and air craft", the Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods (representing the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, Order of Railway Conductors, Brotherhood of Railroad Trainmen, Order of Railroad Telegraphers and Brotherhood of Maintenance of Way Employees) desire to record our approval of what we understand to be the chief principle of the Bill, namely, to place the several forms of transportation referred to therein under the authority of a Transport Commission with power to regulate.

In supporting that principle, we are but continuing our efforts of several years past to co-operate with the Federal and Provincial Governments in considering ways and means for ensuring more effective regulation of all transport agencies, with the object of ultimately reaching an equitable solution of our transportation problem. Our experience and observation convince us that there is a growing public sentiment in favour of effective and orderly regulation of all means of commercial transport, if a solution is to be reached and a sound policy adopted. In other words, if the several forms of unregulated, or but partially regulated transportation now competing with the steam railways are

[Mr. W. L. Best.]



to be co-related and co-ordinated as far as may be practicable with a view to furnishing the public with reliable transport services of maximum efficiency and safety, then we are convinced that some central Government authority which may exercise control over them is desirable and necessary.

Public necessity and convenience demand reliability in transport services. With that as one of the chief objectives, the steam railways and their operating employees have been subject to legislative regulation for more than three decades and, therefore, such regulation has passed the experimental stage. In constituting that legislative authority over the railways, Parliament deemed it desirable and necessary in the public interest that broad powers should be given the Board to make Orders and Regulations governing the development and operation of that enterprise. Generally speaking, these Orders have been mandatory, subject, of course, to re-hearing and review of any such Order and Regulation and subject further to an appeal to the Governor-in-Council as to jurisdiction. These powers of the Board extend to almost every phase of operation, including tariff charges therefor and, in a general way, provide for the protection of property and the protection, safety, accommodation and comfort of the public and of the employees of the railways, together with equipment facilities, in its maintenance and operation. It is reasonable to assume that no one would seriously suggest that legislative control over the steam railways should be discontinued. If regulatory authority is desirable in respect of maintenance and operation of steam railways which are recognized generally as the only dependable means of transportation throughout every day in the year, it would seem logically to follow that any and all other means of public transport should be subject to similar regulations by Government authority in order to ensure fair practices as between the various agencies competing for public transport services.

It is also recognized that practically all forms of transport are now subsidized from public funds. In the Report of the Royal Commission on Railways and Transportation in dealing with canal tolls, it was clearly emphasized that:—

Aids to navigation and the construction of canals and their maintenance have been exclusively a charge upon the public treasury.

This statement might also be applied to the construction, maintenance and operation of Canadian highways and, although of much more recent development, also to airways transportation. Therefore, in view of these annual subsidies to other forms of transport, we submit these agencies should be subject to effective control and regulation by competent government authority.

We desire to express our keen disappointment that it was not deemed expedient to include within the scope of Bill 31 transport by highway. However, we fully recognize and deplore the constitutional limitations which only assign to Federal legislative competence the operation of inter-provincial and international highway traffic. Moreover, with the experience of a year ago, when Senate Bill "B" was under consideration and representatives of almost every other form of transport than the railways opposed regulation, we can more readily appreciate some of the reasons why the Sponsor of Bill 31 has not included highways within its scope. Nevertheless, we are firmly convinced that the principle of the Bill is fundamentally and economically sound and that, but for constitutional limitations, it should include all agencies offering or carrying on the service of transportation of passengers and freight for hire, all of which should be regarded and clearly defined as "works for the general advantage of Canada".

Our position must not be interpreted as, in any way, antagonistic to the highway or other forms of public transport service. On the contrary, we are persuaded that in many parts of Canada, where formerly such service was inadequate, considerably improved transport facilities are now available, at least a portion of the year, particularly in territory where no steam railway exists



and where the building of new lines seems to be a remote possibility. However, in territory where the railways are able and willing to provide ample facilities throughout every day in the year to meet all transport requirements, it does seem to be an economic folly and manifestly unfair that commercial highway facilities and water transportation, both of which are largely subsidized from public moneys and are but seasonable in character, should monopolize the more profitable short-haul traffic when favourable climatic and other conditions prevail, but are unable or unwilling to provide accommodation when conditions are less favourable. In other words, reliable transport service for all communities is a national necessity and, therefore, should be protected from unfair and only partially regulated competition. Bill 31, as we understand its purpose, seeks to protect dependable services now subject to regulation and also equitably to regulate those forms of transport, over which there seems to be little or no effective control, in a manner similar to that imposed upon the railways. As representative citizens and taxpayers, the proposal seems to us to be a very worthy and logical one and, therefore, should be in the very best public interest.

In supporting, wholeheartedly, the principle of the Bill, it seems to us that certain Sections of it contemplate a division of responsibility which may prove a deterrent in realizing the chief objective, which is effective regulation. For example, commencing with Section 5, the Board shall determine whether public necessity and convenience require such transportation as is contemplated in the application, but the application for the licence is to be granted by the Minister. Likewise in Section 6, a licence shall be for one year or for such other period as the Board with the approval of the Governor in Council may determine; also whilst the licence fee shall be in accordance with the tariff of fees to be fixed by the Board, it is also subject to the approval of the Governor in Council. Other Sections under Parts II and III make provision for a similar division of authority.

We recognize that it may be desirable and necessary that a gradual application of the several Parts of the Bill be made from time to time by proclamation of the Governor in Council, thus affording sufficient time to set up the necessary machinery or to make other essential adjustments. However, we respectfully submit that if the Act and the regulations to be made thereunder are to be effective, the Board of Transport Commissioners should have full authority and responsibility in all matters of issuing licences fixing or adjusting tariffs, and the making of orders and regulations in connection therewith. Experience has shown that the public interests can be best served through entirely independent administration by the Board. Hence these brief observations as to the division of authority contemplated in certain portions of the Bill.

The foregoing suggested changes, if adopted, should make more clear that the Act contemplates effective control by the Board of the several transport agencies brought within the scope of the Act with a minimum of political interference. We sincerely hope that the measure will become law during the present Session of Parliament, that the several Parts of the Act will be proclaimed as early as may be practicable, having regard to the necessity for additional administrative machinery being constituted and set in motion, and that when so proclaimed the Transport Commission shall have full authority to grant, withhold or cancel licences or readjust tariffs, hear representations from interested parties, and to make any orders or regulations which, in its judgment, are deemed desirable and necessary in the public interest.

Respectfully submitted,

A. J. KELLY,  
*Chairman.*

WM. L. BEST,  
*Secretary.*

Dominion Joint Legislative Committee.

Mr. Chairman, I think the brief is self-explanatory; unless there are some questions to be asked.

[Mr. W. L. Best.]



The DEPUTY CHAIRMAN: Are there any questions, gentlemen?

Thank you very much, Mr. Best.

Witness retired.

The DEPUTY CHAIRMAN: I will now call Mr. Hutchinson.

A. HUTCHINSON, representing the Hall Corporation of Canada Limited, called:

The WITNESS: Mr. Chairman, I am submitting this brief—

The DEPUTY CHAIRMAN: Speak a little louder, please; the acoustics are rather bad in this room.

The WITNESS: All right. This is the submission of the Hall Corporation of Canada Limited in opposition to the proposed Transport Act in so far as the provisions contained therein relate to transportation by water. The above companies operate Canadian lake vessels commonly known as bulk freighters engaged in the carriage of cargoes generally classified and known in the trade as bulk cargoes—by the way, in passing, I might submit sir that I quoted on two transportations this year which we wanted to have and which we lost to the railroads for the reason that our rates were too high. The railways got the business.

*By Hon. Mr. Howe:*

Q. What does that prove, Mr. Hutchinson?—A. I beg your pardon.

Q. I say, what does that prove?—A. It means that the C.P.R. beat me out on the freight.

Q. What has that got to do with the bill?—A. Mr. Howe, you think that water transportation—

Mr. EMMERSON: Louder, please.

The WITNESS: You think water transportation competes with the railways and that water freight rates are too high—

*By Hon. Mr. Howe:*

Q. I do not think any such thing. As a matter of fact we definitely excluded bulk commodities from the Act, because we did not consider them competitive.—A. You have not excluded bulk commodities, sir. I come to that a little later on—including commodities in bags, bales and barrels.

The vessels operated by these Companies carry on what is generally known as a tramp service carrying grain cargoes when available and whatever return cargoes that may conveniently and economically carry to Canadian and United States Ports. These vessels do not compete for what is generally known as package freight, which is almost exclusively handled and carried by Canada Steamships Limited and their affiliated companies.

It is submitted, therefore, that the cargoes carried by bulk freighters have not deprived the railways of any revenue as the cost of transportation by water of such commodities is lower than the cost of transportation by rail.

That is absolutely true. The Ottawa Transportation company, right in this city, are going out of business on account of the competition of the trucks. I know that they have been operating for the last 40 years. Now all their assets are gone. Why? Because they can't operate—

Hon. Mr. HOWE: Because the owner died and the estate is being liquidated.

The WITNESS: No, sir.

Hon. Mr. HOWE: The owner died, didn't he?



The WITNESS: The owner dying had nothing to do with it. That company was owned and operated by estates, and it has been a profitable company up until the last two or three years when the roads have taken it away from them. That is definite. I can tell you that.

*By Mr. Parent:*

Q. What is the name of that company?—A. The Ottawa Transportation company. And that company was absolutely put out of business by highway truck competition.

*By Mr. Cameron:*

Q. Where were they operating?—A. They were operating between Ottawa and Montreal.

It is submitted, therefore, that the cargoes carried by bulk freighters have not deprived the railways of any revenue as the cost of transportation by water of such commodities is lower than the cost of transportation by rail. The railways would not be willing to accept such commodities for transportation at rates which the bulk freighters receive and upon which they can operate profitably on account of the difference in costs of operation. The great competition for the railways is from the motor trucks and package freighters operating a scheduled service between points such as Montreal-Toronto, Montreal-Detroit, and other points and places which are served by the railways. These package freighters handle commodities in small and large quantities being able to take a portion of cargo of canned goods and the balance of other goods and merchandise and are in direct competition with the railways. The bulk freighters have never attempted to handle any substantial portion of this business and do not operate a regular scheduled service between any ports.

It is submitted, therefore, that there is no reason whatsoever for subjecting bulk freighters to all the complicated machinery and requirements requiring them to file tariffs when their business must be obtained by private negotiations and contract.

A representative of a steamship company engaged in the package freight business recommended to the committee the adoption of the Bill with the exception of the "agreed charge" section. This company did not indicate to the committee that they would in such case have a monopoly on the package freight business so far as water transportation is concerned. It is easily understood why this shipping company urges the adoption of the Bill with the exception of the "agreed charge" section as they well know that it is impractical and impossible for bulk freighters to classify themselves as common carriers under the Act and comply with all the regulations with respect to the filing of tariffs, obtaining of licences, etc., and if the Bill passes in its present form, this company will have a monopoly on the package freight business and the bulk freighters will be deprived of the business they have heretofore enjoyed.

This company already has a tariff and tariff department dealing with rates with respect to package freights and is qualified to comply with the provisions of the Act as it presently engaged in this particular kind of business and operates package freight scheduled service between ports. This company would welcome the restricted meaning given to "goods in bulk" under the Bill as it would deprive bulk freighters of a tremendous amount of business formerly enjoyed by them and make it available for package freighters licensed under the Act as a good portion of these cargoes are not sought by the railways and could not be handled by them, such as baled pulp.

It is respectfully submitted, therefore, that the definition of "goods in bulk" under section 2 of the Bill should be amended so as to exclude what is generally

[Mr. A. Hutchinson.]



known as goods in bulk sometimes carried in bags, bales, barrels, etc. It is suggested that clause (e) of section 2 of the Bill be struck out and the following substituted:—

Goods in bulk mean the following goods laden or freighted in ships: grain and grain products; sugar, flour, feed and fertilizer; ores and minerals; sand, stone, gravel and china clay; coal and coke; salt, sulphur, soda ash, calcium chlorides and other chemical products; pulpwood, wood pulp baled or otherwise; newsprint, poles, logs, lumber and shingles; liquids of all kinds; hay; binder twine; iron and steel products, iron and steel scrap, pig iron and all other commodities carried by bulk freighters prior to the coming into force of this Act.

It is also suggested that bulk freighters might be defined under the Act as follows:—

Bulk freighter means ship engaged in the carriage of goods in bulk.

It is pointed out that several hundred thousand tons of baled pulp, newsprint, iron ore, flour and other products mentioned above have been carried by bulk freighters and have not in any way affected railway rates. The fact is that there has been co-operation between the bulk freighters and railways with respect to the transportation of grain, flour, and other commodities from time to time by the establishment of an agreed lake and rail rate.

It is also pointed out that one company alone carried over eight million feet of lumber during the navigation season of 1937.

It was also stated by a representative of a shipping Company speaking in favour of certain parts of the Bill, that the loss of return cargoes or of any of the cargoes excluded by the narrow description of goods in bulk in the Bill could not possibly have any affect upon grain rates. This statement is improper and can only have been made for the purpose of misleading Members of the Committee, as it is a recognized fact in the shipping business that return cargoes very materially affect the rates on other cargoes. Any Member of the Committee can easily understand that if arrangements could be made to give a ship return cargoes for each and every ship they could afford to carry other cargoes such as grain at a lower cost as it costs almost as much to operate a ship light as it does with cargo. If a ship goes from Fort William to Montreal with a cargo of grain and has to return to the head of the Lakes light, the cost of the round trip operation must be charged to the grain, whereas if it has a return cargo the cost would be divided between the two cargoes.

*By the Hon. Mr. Howe:*

Q. Let us examine that. What has the fact of a ship getting a return cargo got to do with rates? Give me examples over the last five years. The rate on grain to-day is five and three quarter cents a bushel. Does it matter whether you have a return cargo or not, you have to charge five and three-quarter cents a bushel, do you not?—A. It matters quite a lot.

Q. To you, not to the rate.—A. To go ahead and bring a boat from Montreal and send her back light at five and three-quarter cents, we cannot more than make operating costs.

Q. True.—A. We cannot pay our overhead.

Q. But the rate is five and three-quarter cents, whether you have a return cargo or not?—A. Yes, but if we have the privilege of taking a cargo of baled pulp, in bundles, true, packaged freight, then we can reduce our rate and our operating costs, and we can then afford to compete with American competition.

Q. You do reduce your rates, if you carry a return cargo, is that the thought?—A. Well, if you get down to a point so low—

Q. You are talking about your earnings and I am talking about the rates, and I suggest to you that you have never reduced your rates in your history for



any reason having to do with return cargoes. Can you give me one example when you have done that?—A. Yes, sir. Any time I bring a return cargo I can meet the competition, otherwise I cannot. The boats will go to the wall and the men will go ashore.

Q. But you are still not getting the point. I can understand very well indeed, and I think all members of the committee understand, that it affects your earnings very considerably, but the rates are made independently of the effect of return cargoes both on the Atlantic and on the Great Lakes and always have been.—A. Mr. Howe, at the time we make a rate you know that we have to take into consideration the delivered price at Liverpool, Rotterdam, or anywhere else.

Q. For example, the rate from Montreal to Liverpool is a rate agreed on by the Tramp Tonnage Conference?—A. Yes sir.

Q. And it does not vary by reason of a return cargo. A boat can come over empty and take a load back, but it charges the same rate as a boat carrying over a load of coal and then returning with another cargo.—A. What will that boat charge from New York?

Q. I do not know. I am talking about rates, and they are the same.—A. They are not. You have got to compete with the Atlantic seaboard.

Q. Well, go on with your brief.—A. If a ship goes from Fort William to Montreal with a cargo of grain and has to return to the head of the lakes light, the cost of the round trip operation must be charged to the grain, whereas if it has a return cargo the cost would be divided between the two cargoes.

*By Mr. Duffus:*

Q. Is that usually done? Is that suggestion usually carried out?—A. Yes, sir.

Hon. Mr. HOWE: You mean do they give the shipper the benefit of the saving?

Mr. DUFFUS: That is my question.

*By the Hon. Mr. Howe:*

Q. You always do that?

*By Mr. McIvor:*

Q. They do not carry grain at a cheaper rate?—A. Simply for the reason that we cannot carry it any cheaper. But if we can go ahead and get a return cargo to help pay the operating expenses, then we can keep in operation, otherwise the boats would go to the dock and the fellows would be out of a job.

*By Mr. Gladstone:*

Q. The railways have to haul thousands of empty box-cars to the west in order to handle the movement of grain.—A. Yes, but look at the railway balance sheet last year. Who is paying for that?

*By Mr. Heaps:*

Q. Well, who is?—A. I am and you are.

Q. That applies only to one railway, not to both.—A. Yes, but I have some stock in the C.P.R. and it is not paying any dividends.

It is also important to the bulk freighters that when grain cargoes are not available they should have the opportunity of engaging in the carriage of other bulk commodities which they have heretofore carried. The Canadian bulk freighters are in direct competition with United States bulk freighters who are in the fortunate position of having ore cargoes to carry in addition to grain and they are not in any way restricted as to the cargoes they can carry between

[Mr. A. Hutchinson.]



Ports. These ships when not engaged in the ore trade and even sometimes when engaged in the trade, come across to the head of the Lakes and carry grain to Buffalo in competition with Canadian vessels and on account of these United States vessels being able to carry other cargoes and having such cargoes available to carry, they are able to cut the rate and it has to be met by Canadian vessels if they wish to get the grain for shipment through Canadian Elevators and Canadian Ports.

*By Mr. Cameron:*

Q. Would they be able to cut the rates if this bill goes through?—A. Yes, sir; nothing to stop them.

Hon. Mr. HOWE: The reason bulk freighters have been excluded from the operation of the bill is that anybody could cut the rate on bulk freight under this bill, or increase it.

Hon. Mr. STEVENS: Of course, that is not quite right. You can limit bulk freight so much under the bill that a bulk freighter would be restricted.

Hon. M. HOWE: I would like you to show me a sample cargo of bulk freight that is not provided for under the bill.

Hon. Mr. STEVENS: Your interpretation of "bulk freight." For instance, what has been emphasized so often, baled pulp, flour, stocks and feed.

Hon. Mr. HOWE: Stocks and feed have never been bulk freight in anybody's book of records.

The WITNESS: Mr. Howe, I would like to point out that for the last five, seven or eight years, and I think Captain Foote can confirm this, we have been carrying full cargoes of flour and feed from Fort William to Montreal for one company in particular that we considered absolutely was bulk freight, and I do not think any one should consider it otherwise. We do not take anything else. If we only take a parcel for you from Fort William to Montreal, and will not take it for any one else, it is a full cargo.

*By Mr. Cameron:*

Q. You interpret "bulk cargo" to mean a full cargo?—A. Absolutely, providing you do not take anything else.

It is pointed out in conclusion that if anything is done to prevent or hinder the operation of Canadian Lake vessels carrying grain so that they will not be able to compete with United States vessels, which are entirely unhampered and free to operate between American Ports, and Canadian and American Ports, and able to enjoy whatever cargoes they may find, it is possible that a larger volume of grain may move through American Ports which will deprive Canadian Elevators of a portion of the business and result in the loss of wages to Canadian workmen.

*By Hon. Mr. Howe:*

Q. But, in the meantime, about eighty million bushels of American grain is moving through Canadian ports, is that not true? So I would not stress that too heavily.—A. The Buffalo canal is limited as to capacity.

Q. Is it working to capacity?—A. I would not say so.

Q. No. There is no freight going down there at all, it is all going down the St. Lawrence.—A. Why?

Q. Because the rate is cheaper. There are two or three great bugaboos that you people always put up, that is, that we are driving business to the American ports. I have heard that for the last three months, and yet at the moment the Canadian ports are doing twice the business they have ever done in their history.—A. Mr. Howe, I would like to point out to you that two or three years ago the port of Montreal handled over 200,000,000 bushels of grain in one season.



Q. Two or three years ago?—A. Yes.

Q. That was in 1928.—A. They have not done it since.

Q. That is because the grain was not there.—A. Do you think they will do it today?

Q. Yes, I think they will do it this year.—A. I do not think so.

The DEPUTY CHAIRMAN: Proceed with your brief.

The WITNESS:

It is submitted, therefore, that the Act should not be passed and if the Government insists upon passing the Act great care should be taken in amending the provisions so that bulk freighters will not be deprived of the business they have heretofore enjoyed and which does not affect the railways or deprive them of any profits.

The DEPUTY CHAIRMAN: Are there any questions, gentlemen?

*By Mr. Heaps:*

Q. Mr. Chairman, the witness spoke about the subsidies to railways. I should like to ask the witness if he regards the vast expenditures that the government has made in connection with canals and the maintenance of waterway channels as subsidies to the transportation interests of this country?—A. Do you think the canals are entirely free?

Q. I am asking you the question.—A. They are not.

Q. What tolls do you pay on the canals in Canada?—A. Since the new Welland canal came through we are forced by legislation to go ahead and take canal helpers that we never took previously.

Q. I am speaking of dues that you pay to the government?—A. Dues, no.

Q. They are free, and the channels are maintained by the government, too?—A. Yes.

Q. And that entails a cost—I do not know how much as the Minister has not the figures with him—but many millions of dollars each year.

*By Hon. Mr. Howe:*

Q. Are you telling us that it costs more money to go through the new Welland canal than it did to go through the old Welland canal?—A. Yes, sir.

Q. That statement of yours is not true.—A. It is true.

Q. How many days did it take you to go through the old canal?—A. A day.

Q. How long does it take you to go through the new canal?—A. It depends on the traffic.

Q. How long under the same conditions?—A. There is not a great deal of difference, Mr. Howe.

Q. Well, that is a very interesting statement.—A. Well, I am telling you.

Hon. Mr. Howe: I will get the statistics on it for the committee.

*By Mr. Young:*

Q. What is the present rate for carrying grain from Fort William to Montreal?—A. Five and three-quarter cents, if you can get it, but nobody has got it yet.

Q. You all carry it at the same rate?—A. (Unanswered.)

Q. Did you say "Yes" or "No"?—A. I will not answer.

Q. What factors are taken into consideration when arriving at a rate?—A. The absolute cost of operation and the time taken for the voyage.

*By Hon. Mr. Howe:*

Q. How can you explain that you were taking grain at four cents a bushel three weeks ago from the head of the lakes and now you are charging five and [Mr. A. Hutchinson.]



three-quarter cents? That is due to the cost of the voyage, is it?—A. No. Can I use the previous witness' statement?

Q. Yes.—A. Piracy.

*By Mr. Young:*

Q. What factors do you take into consideration?—A. Actual estimated time for the voyage, cost of handling, charges and our operating costs.

Q. What I have particularly in mind is this: Do you take into consideration a possible return cargo?—A. We try to get one if we can. We take a gamble. We may get a return cargo of baled pulp for Lake Erie or Lake Michigan, or anywhere else. If we can get it, that eases us out of that position.

Q. If this bill passes would it prevent your getting return cargoes?—A. To a large extent, yes.

Q. For what reason?—A. Baled pulp in bulk. I have carried a lot of it. If this bill passed baled pulp immediately comes under head of package freight.

Q. Yes.—A. I may or I may not get a licence.

*By Mr. Parent:*

Q. Then if the bill was amended?

*By Mr. Young:*

Q. Is it the fear that you may not get a licence?—A. If I got a licence this year, will I get one for next year?

Q. Is that your fear?—A. That is one of them.

Q. What is the next one?—A. Monopoly on the part of one steamship company in Canada.

Q. What I am trying to get at is what section of this bill is going to operate against you, and how is it going to operate against you?—A. You are just leaving us right in the position, if this bill goes into effect, that we are left with nothing to carry but grain and coal. That is about all we have got. And I would like to ask you right now—

Q. You need not ask me, I am asking you; I am not a witness. I want to know for my own benefit and the benefit of the committee in what way you would be restricted if you got a licence. We will assume that. What next would you have to do? There is nothing left to prevent you, as I see it, from getting any freight you like. Could you not carry anything you liked, under the bill? You know more about the business than I do and I am trying to find out.—A. I do not know much about it either. There is nothing that we can get more than what we have been carrying, and we have not interfered in any way, shape or form with the package freight business, and we have no intention of doing so.

Q. I am not suggesting that, I am merely trying to find out your point of view as to how this bill will adversely affect you. I am not saying it will not, I am merely trying to find out from you how it will.—A. I have a contract in particular right now to carry raw sugar from Montreal to Toronto in bags. If this bill goes into effect, I cannot handle it.

Q. If you become licensed?

*By Hon. Mr. Howe:*

Q. Unless you take a licence.—A. Mr. Howe, how many boats are going to take a licence?

Q. The bill provides that any boat which has been operating within the last twelve months will be entitled to a licence automatically.—A. Have I to take a licence and pay for a licence for every ship? Because I do not know which boat would carry it.



Q. I think it would be good protection. The licences may cost perhaps \$1 each.—A. Well, as long as they are down to \$1.

*By Mr. Heaps:*

Q. You do not object to the licensing, it is the amount?—A. If we get a licence, do we then automatically come under the classification of a common carrier?

*By Mr. Howden:*

Q. Sure.—A. If we do, then I do not want a licence.

*By Mr. Young:*

Q. Providing you have a licence, is there anything in the bill to prevent getting the class of freight which you say you might lose?—A. Yes, there is. I do not want you to come down with a parcel in Montreal weighing about 50 pounds and tell me to take it to Toronto for 25 cents. I am not going to do it.

Q. Providing that kind of thing is taken care of, what other objections would you have?—A. I have another objection, a strong one. We operate our own pulp wood limits down the Gaspé coast. Our limits are 99 miles away from a railroad. Naturally, the goods have got to go down by steamboat. We take them down by our own boats and charge nothing to the jobbers except actual lost time. We are not depriving the railroads or trucks or anybody else of any revenue. If I have got to go ahead and peddle that to every Tom, Dick and Harry that is running a small river boat, or the Clark Steamship Company, if you like, I have to pay a premium, and the jobbers have to pay higher for their supplies.

*By Hon. Mr. Howe:*

Q. You are carrying that to your own people?—A. Yes.

Q. O.C.S.—on company service. That is not a tariff rate, is it?—A. Mr. Howe, according to the wording of this bill, I have to get a licence for that.

*By Mr. Heaps:*

Q. Do you drive an automobile?—A. I try to.

Q. And you get your licence each year for that automobile?—A. Yes, sir.

Q. Do you have any objection to getting your licence—A. It is a nuisance sometimes.

Q. But you go and get it?—A. Yes.

Q. Do you think there would be much difference between getting a licence for your automobile and getting a licence for your boat, as long as you comply with the regulations?—A. I do not like the thin edge of the wedge. Where is it going to stop?

*By Mr. Young:*

Q. That is what the committee is trying to find out from you, just what your real objections are and where the bill is going to adversely affect you. We are trying to find that out step by step. What are the things that you fear under this bill?—A. If you would leave us alone.

Q. But supposing there is a licence, what is going to adversely affect you?—A. We would all be placed in the category of common carriers. We would have to take a small parcel from here to here and we would not be able to refuse. If we did, the government would be against us. Just leave us alone. We are operating, not making any money, admittedly, except a very few. If they are not making money, it is their own fault. Leave us alone. We will carry through. We will get by and we will give all the service necessary for the Canadian west and for any Canadian lake trade.

[Mr. A. Hutchinson.]



*By Mr. McIvor:*

Q. Your amendment for section 2 is pretty wide, is it not?—A. Yes, sir.

Q. You give the list and then add other products. You quote newsprint, poles, logs, lumber and shingles, and liquids of all kinds. Do you not think that is pretty wide?—A. As long as it is bulk cargo, sir, that is all we want. Make it a full cargo. We are not going into the package freight business, we do not want to. That is definite.

The DEPUTY CHAIRMAN: Are there any other questions, gentlemen? (No questions.)

Thank you, Mr. Hutchinson.

The witness retired.

The DEPUTY CHAIRMAN: Gentlemen, the Canadian Manufacturers' Association would like to be heard. Is Mr. Brown here?

Mr. G. B. BROWN: Yes, sir.

The DEPUTY CHAIRMAN: I understand you simply want to submit some material supplementary to that which is already before the committee from your association?

Mr. BROWN: Yes. It is an additional submission having regard to the fact that the railways have put something in.

The DEPUTY CHAIRMAN: Have you copies of your submission?

Mr. BROWN: I have some and I have given them to the secretary to give to members of the committee.

The DEPUTY CHAIRMAN: Will you come forward, please?

G. B. Brown, Manager Transportation Department, Canadian Manufacturers' Association, called:

The DEPUTY CHAIRMAN: Will you proceed, please, Mr. Brown.

Mr. HEAPS: I would like to ask, Mr. Chairman, if we are going to make this a precedent for all persons who have put in submissions, that they should have the right to put in supplementary submissions?

The DEPUTY CHAIRMAN: That applies only to those who have appeared.

Mr. HEAP: I am speaking of those who have put in submissions but who may want to reply to the submissions which other people who have appeared before the committee have put in.

The DEPUTY CHAIRMAN: I understand that all they want to do is to supplement a submission already before us. They asked that they be permitted to do that and it was agreed to.

Mr. HEAPS: I understand from what the witness just stated that he wants to reply to the submissions made by the railway.

The DEPUTY CHAIRMAN: I know. That is the reason why we heard the railways first; in order to give them a chance to answer them. Then, the railways will come back in rebuttal.

Mr. HEAPS: Are there going to be rebuttals all the way around?

The DEPUTY CHAIRMAN: I am in the hands of the committee.

Mr. HEAPS: I have no objection in the least. If one is going to have that right it seems to me that the same right should be extended to others.

The DEPUTY CHAIRMAN: As a matter of fact, we have already heard two of them in rebuttal; and this is the third.

Mr. HEAPS: All right.



Hon. Mr. HOWE: I should think we would be glad to hear anybody. I think we are scheduled to finish this hearing to-morrow so that we can get on to the bill itself. Is that the understanding, Mr. Chairman?

The DEPUTY CHAIRMAN: The understanding was that we should hear this morning the remainder of the evidence which it was decided by the sub-committee we should hear. We have done that, and this is the first witness who comes in rebuttal—as you might call it.

Mr. HEAPS: May I ask how many other witnesses there are?

The DEPUTY CHAIRMAN: No others have applied.

Mr. HEAPS: Thank you.

The DEPUTY CHAIRMAN: If we conclude with these people this morning the railways can be heard in their rebuttal this afternoon.

Will you proceed, Mr. Brown, please.

The WITNESS: This is our further submission:—

discrimination will be exactly the same as under the Railway Act and, finally, that the objections of that part of the shipping public represented by the Canadian Manufacturers' Association to the agreed charge are "expressions of vague apprehensions and fears." This, we believe, fairly expresses the case of the railways.

We may perhaps be permitted, by way of introduction, to repeat a statement already made in our original memorandum. This Association fully realizes the difficult situation in which the railways have been placed by unregulated competition from other types of transportation. As Mr. Rand so neatly expressed it in the course of his evidence on behalf of the railways (page 32 of the Minutes of Proceedings and Evidence of the Standing Committee on Railways, Canals and Telegraph Lines):—

The railways of this country are bound up with the national life; indeed, without exaggeration, one may say the national existence. By reason of our geographical conditions, our climate, and the character of our economic life, they will remain indefinitely the vital necessity of our national vigour. If we accept that premise then it follows that they must be accorded a just equality of means and powers with their competitors, if they are to acquit themselves according to their capacities. That that is the insistent requirement of to-day admits of no controversy and the measures here proposed are designed to achieve that end.

We are prepared to concede that Part V was designed to achieve that end; that it will in fact achieve that end we emphatically deny. The Association's submission is that the method proposed to afford this equality of means and powers, namely the agreed charge, is contrary to the public interest.

An essential point upon which this Association differs from the two representatives of the railways who appeared before the Committee is the meaning to be given the phrase "unjust discrimination" in Part V. Both the Railway Act and Part V of Bill 31 seek to protect a shipper against unjust discrimination in favour of a competing shipper. Discrimination will not be unjust so long as every shipper can demand the same rates as every other shipper who ships the same or similar goods under substantially similar circumstances and conditions.

But the representatives of the railways are suggesting that in deciding the meaning of the phrases, "unjust discrimination" and "substantially similar circumstances and conditions," the same circumstances will be taken into consideration under Part V as are now considered under the Railway Act. Mr. Rand of the Canadian National Railways put it as follows, "We may accept it, therefore, beyond any question that if unjust discrimination means one thing under the Railway Act it means the same thing under this Act" (page 38 of the

[Mr. G. B. Brown.]



Minutes of Proceedings and Evidence). The Minister of Transport went almost as far when he said that the question of quantity will be immaterial under Part V in deciding whether two shipments are under similar circumstances and conditions, provided only that both shipments are by carload lots (pages 2 and 3 of the Minutes of Proceedings and Evidence). Provided both shipments are in carload lots, the question of quantity is of course immaterial under the present Railway Act.

The Canadian Manufacturers' Association feels, with the greatest respect, that such statements as these are misleading. In its original memorandum the Association contended that, in deciding what is unjust discrimination, under Part V circumstances and conditions could be taken into consideration that could not be considered under the Railway Act, that, in other words, certain practices which would undoubtedly constitute unjust discrimination under the Railway Act would not constitute unjust discrimination under Part V. It repeats that contention here. Sponsors of Bill 31 have stated on more than one occasion that a purpose of the agreed charge is to permit a carrier to enter into an agreement to carry the whole or a specified portion of the goods of a shipper, at a special rate, an agreement into which it could not now enter under the Railway Act (e.g. page 35 of the Minutes of Proceedings and Evidence). Surely on their own showing, then, "unjust discrimination" and "substantially similar circumstances and conditions" may mean one thing under the Railway Act and another under Bill 31 and quantity may be a relevant consideration in deciding, for purposes of Bill 31, whether two shipments are under substantially similar circumstances and conditions.

Section 35 of Part V of Bill 31 permits a carrier to make such charge or charges for the transport of the goods of any shipper or for the transport of any part of his goods as may be agreed between the carrier and that shipper, and this "notwithstanding anything in the *Railway Act*, or in this Act or in any other statute." As the representatives of the railways themselves admitted, this section undoubtedly enables a carrier to enter into an arrangement with a shipper whereby the shipper will agree to give the carrier all his goods, or a part of his goods, for transportation in return for an advantageous rate. It will at once be seen that the chief condition or circumstance upon which the rate is based is the shipper's agreement to give the carrier all his traffic or such proportion of his traffic as may be specified. To-day, under the Railway Act, no such condition as all of the traffic or part of the traffic may be pleaded by the railways, when faced with a complaint of unjust discrimination, in order to justify a difference of treatment. By section 35, then, a new condition or circumstance is introduced which the railways may plead in justification of their refusal to extend a special rate allowed a particular shipper to shippers in competition with him. As was stated in our original memorandum, the question of rates and conditions of carriage will become a matter of private bargaining between carrier and shipper and the principle of equality embodied in the Railway Act will be undermined. Almost inevitably, the adoption of Part V will mean an eventual return to the chaotic conditions so vividly described by Mr. Rand as existing prior to the regulation of the railways.

When Mr. Rand and Mr. Walker appeared before the Committee they made great play with the Association's reference to the words, "notwithstanding anything in the *Railway Act*, or in this Act or in any other statute" (pages 38 and 53 of the Minutes of Proceedings and Evidence). An agreed charge, they said quite correctly, could not effectively be made between a shipper and a carrier under the present Railway Act. The words "notwithstanding anything in the *Railway Act*, or in this Act or in any other statute," were included, Mr. Walker said, because "the draftsman obviously thought that in the face of the express prohibition in the Railway Act to the making of an individual or agreed rate



they should make it abundantly clear that an agreed charge should not, merely because it is an agreed charge and altogether regardless of discrimination, per se be illegal."

Assuming the possibility of this interpretation for the sake of argument, it is quite misleading to suggest that unjust discrimination will mean the same thing under Bill 31 as it now means under the Railway Act. It will not. It is true, as Mr. Rand pointed out, that "Unless it is otherwise provided or the context otherwise requires, expressions contained in this Act shall have the same meaning as in the Railway Act." The important thing is that the context does require that the expressions, "unjust discrimination" and "substantially similar circumstances and conditions," shall not have the same meaning in Bill 31 as in the Railway Act. As the Association has tried to show, the very nature of the agreed charge introduces new circumstances and conditions that make this inevitable. We do not, therefore, "think that a more accurate appreciation of the language of this Act would dispose of the entire objections" raised by this Association, to borrow the phraseology employed by Mr. Rand before this Committee.

We would again draw the Committee's attention to a statement that will be found on page 8 of the Association's original memorandum:—

In effect Part V of Bill 31 will legalize the establishment of rates based upon circumstances and conditions which under the existing Railway Act would not be recognized by the Board in determining whether or not difference in treatment constitutes unjust discrimination and where arrangements are approved by the Board this approval would be added as justifying a practice which the Board would not to-day approve.

The truth of this statement cannot be contradicted, however it may be glossed over. In fact "unjust discrimination" will mean the same thing under Bill 31 as it now means under the Railway Act, if in fact a shipper will be able to claim the same rates as a competitor by proving only the same conditions as he must now prove under the Railway Act, then Part V will be of no advantage whatever to the railways. For they could reach the same end by means of the so-called competitive tariffs of tolls already permitted by the Railway Act. The fact is, of course, that Part V does make a material change in the position of shippers.

In the course of his representations to this Committee Mr. Rand said (page 35 of the Minutes of Proceedings and Evidence):—

Arrangements of this kind (that is, arrangements whereby a shipper agrees to ship his entire output) are made in the ordinary run of railway administration: the practice is of long standing; and the effective operation of the proposed legislation is to validate that arrangement with the individual shipper to the exclusion of all others who are not prepared to accept the rate on similar conditions. The agreed charge is universally practised by water and truck carriers; it is an essential part of their traffic mechanics; from the standpoint of fairness, equality and economics, why should the railways be denied the same right?

Yet the very thing of which Mr. Rand complains, and rightly complains in our submission, is the chaotic rate structure now existing in water and truck transportation. How can it seriously be contended that a factor that has contributed so much to those chaotic conditions, namely, the agreed charge, should be adopted by the railways?

*By Mr. Bertrand:*

Q. Subject to the control of the new board? It is argued by some that it will cost more, by others that it will not. What do you say as to that?—A. What we point out is that this introduces these new circumstances and conditions with which shippers will be faced but with which they are not faced to-day.

[Mr. G. B. Brown.]



It need not be emphasized before this Committee that assurances given by the sponsors of a bill at the time of its consideration by Parliament or by a Committee of the House are not binding upon the government officials or the courts who are called upon to administer or interpret the Act when it is finally passed. Every organization in the habit of making representations on proposed legislation must on occasion have been induced by assurances of the sponsors of the legislation to withdraw its objections, only to find that the possible abuses which it feared are only too obvious in practice. This Association would be failing in its duty to its members in a matter of such importance if it did not point out the possibilities of abuse implicit in Bill 31. The Association is concerned with the Bill as it stands, not with regulations, that may or may not be issued under it.

The representatives of the railways contend that Part V is of vital importance "to determine the boundaries of the legitimate field of each regulated and unregulated service" (page 37 of the Minutes of Proceedings and Evidence). As has been said above, Part V is designed to permit railway carriers to enter into agreements to carry all or part of an individual shipper's traffic. If Part V is to benefit the railways this traffic must be taken from someone else; it will doubtless come from the unregulated competitors of the railways. Far from determining the boundaries of the legitimate field of regulated and unregulated services, the adoption of Part V will still further confuse those boundaries. The making of agreed charges will in effect intensify competition, particularly between the regulated and unregulated carriers. The type of competition existing during the last twelve years among the unregulated carriers themselves, particularly among truck operators, indicates that they will not stand idly by while their business is being taken away from them by the regulated carriers. They will be compelled to go in for further rate cutting, with all the resultant impairment of services following upon reduced revenues. A vicious circle will inevitably result.

Q. Surely you are not one of the parties that came here to ask for an increased rate when the rate you are getting is less?—A. No, we have never in anything in our submission said anything about that. We have never taken that position.

The cutting of rates by truck operators will give those shippers who have not entered into agreements, or who have been unable to secure agreements, an opportunity to cut their transportation costs to meet and better the costs of those bound by agreements with the regulated carriers. Before long shippers operating under agreed charges will demand a new deal. They will either cancel their old agreements or secure new ones, with consequent reduction in rates and loss of revenue for the regulated carriers.

These are not "expressions of vague apprehensions and fears." For twelve years this sort of confusion has been prevalent in the field of highway transport. The confusion will only be intensified and extended to other forms of transport by the adoption of Part V authorizing the making of agreed charges.

*By Hon. Mr. Howe:*

Q. Just apropos your last remark; it is a peculiar thing that the carriers are afraid rates will be increased and the shippers are afraid they will be cut—that appears to me to be wholly illogical?—A. The carriers are afraid—there will be an increase in the water carriers I think.

*By Mr. Young:*

Q. Is it your contention that the bill gives a little more protection to the railways?—A. We don't see it that way. We think it is going to open the door and intensify competition because you have no control over the truck fellows until they are regulated. That is what we want. We want regulation of all these people.



Q. You don't think this will give you a little added protection?—A. I do not think so. We think it is going to intensify competition, then where are you.

*By Mr. Bertrand:*

Q. Will you take page 2 of your memorandum, about the middle of the page, you say:—

The Association's submission is that the method proposed to afford this equality of means and hours, namely the agreed charge, is contrary to the public interest.

Do you mean that tariffs are going to be higher, or lower?—A. Higher. Higher, I think. The principle of the agreed charge, as I tried to point out before, is going to do something; it is going to benefit—having in mind all the different interests—for instance, the railways, truck operators, the steamship people, the air services—after all, that is the public.

Q. Yes; but we have had people before us who were against us because it was going to mean higher tariffs; and at the same time others were against it because it was going to lower tariffs. What I wanted to know was, in which of these categories are you?—A. We say that it is going eventually—as we tried to point out—it is going to intensify competition. Actually, it is going to take some time for this thing to work out—

Q. I do not want to go that far at the moment. What I want to know now is will the rates be lower or higher?—A. That is something we cannot tell until we see how it is going to work out; but, we do believe it will reduce the rates.

*By Mr. Johnston:*

Q. Don't you think this will have any influence on trucking?—A. In what way?

Q. In respect to rates?—A. No, I do not think it will.

*By Mr. Young:*

Q. It is your opinion that rates will be reduced?—A. I think that is really what you get to finally.

Q. Do you object to that?—A. As far as we are concerned we would rather see stability of rates.

Mr. BERTRAND: That is a principle to be approved.

The Deputy CHAIRMAN: Thank you, very much.

The witness retired.

The Deputy CHAIRMAN: Gentlemen, I have received other communications. Mr. Lewis Duncan, who appeared as a witness here on May 12 has submitted,—

(a) The statement asked for by members of the committee—see page 160 of evidence—showing province of Ontario highway revenue and expenditure for five years ending March 31, 1937.

(b) Corrections to evidence given by him on May 12.

Is it agreed that this material shall be entered in our records?

Agreed.

*(Appendices Nos. 1 and 2)*

I have also another submission. The Hamilton Chamber of Commerce has sent a letter regarding harbour tolls. That however has nothing whatever to do with the bill before this committee. I think we had better just leave that with the Clerk.

[Mr. S. B. Brown.]



Then, Mr. M. J. Patton, of the Canadian Automotive Transportation Association, has submitted a letter containing corrections which he would like to have made in the evidence he gave on May 12. Shall that be included in the record also?

Agreed.

*(Appendix No. 3)*

Mr. S. B. Brown of Canadian Manufacturers Association has drawn attention to a mistake in the printed record of evidence of April 28.

*(Appendix No. 4)*

Now, gentlemen, there were certain amendments proposed the other day by Mr. G. P. Campbell, who appeared on behalf of certain steamship companies. You will recall that we asked Mr. Campbell to put his amendments in writing and submit them to us.

Mr. HOWDEN: I would suggest that that document be taken as read and form a part of the record of our proceedings of this morning.

The DEPUTY CHAIRMAN: Is that agreeable to the committee?

Agreed.

Then, it will go in the record of to-day's proceedings.

### MEMORANDUM

*To the Committee on Railways, Canals and Telegraph Lines*

Submitted on behalf of:

Paterson Steamships Limited,  
Colonial Steamships Limited,  
Sarnia Steamships Limited,  
Upper Lakes & St. Lawrence Transportation Company Ltd.,  
Blue Line Motorships Limited,  
Northland Steamship Company Limited,  
Norris Steamships Limited,  
Mohawk Navigation Company Limited,  
North American Transports Limited,  
International Waterways Limited,  
Inland Lines Limited,  
Union Transit Limited,  
Foote Transit Limited,  
Hall Corporation of Canada Limited.

The following amendments to the proposed Transport Act as contained in Bill 31 are proposed by the above-mentioned companies following the suggestion of the Chairman of the committee:

1. Amend Section 2, subsection (1), by adding a new clause after (d) as follows:—

*(d.d.)*

Bulk carrier means any ship engaged in the carriage of goods in bulk.

The purpose of this amendment is to distinguish between a bulk carrier and a package carrier throughout the Act so that bulk carriers can be exempt from the provisions of the Act except when engaged in the carriage of goods other than goods in bulk.

2. Amend Section 2, by striking out clause (e) of subsection (1) and substituting therefor the following:—

(e) Goods in bulk means any goods laden or freighted in ships and not bundled or enclosed in bags, bales, boxes, casks, crates or any other



container and the following goods so laden or freighted whether so bundled or enclosed or not: grain and grain products; sugar, flour, feed and fertilizer; ores and minerals; sand, stone, gravel, and china clay; coal and coke; salt, sulphur, soda ash, and calcium chloride, and other chemical products; pulpwood, wood pulp; newsprint, poles, logs, lumber and shingles; liquids of all kinds; hay, binder twine; iron and steel products, iron and steel scrap, pig iron; oyster-shell.

Bulk carriers should be permitted to carry all kinds of goods in bulk irrespective of the nature thereof when actually shipped in bulk and not packaged, etc., and they should also be privileged to carry the goods above described whether packaged or not as they have heretofore engaged in the carriage of such goods when bulk cargoes were not available or as return cargoes. Bulk carriers although carrying bundled or packaged goods at times do not compete with package freighters or engage in the ordinary package freight business as they do not maintain scheduled services, and it is submitted that they do not compete with the railways with respect to the foregoing commodities. The fact is that they co-operate with the railways in connection with the transportation of grain, flour and other commodities by the establishment of a lake-and-rail rate.

Unless the definition of the words "goods in bulk" as used in the Act is extended, bulk carriers will experience serious losses of business and package freighters who do not engage in the movement of bulk commodities will have a virtual monopoly of water transportation with respect to such commodities.

3. Amend Section 5, by striking out subsection (2) and inserting in lieu thereof, the following:—

(2) If evidence is offered to prove:—

(a) that during the period of twelve months next preceding the coming into force of the relevant parts of this Act on, in, or in respect of the sea or inland waters of Canada or the route between points or places in Canada or between points and places in Canada and points and places outside of Canada, or the part of Canada to which the application for a licence relates, the applicant was bona fide engaged in the business of transport, and

(b) that the applicant was during such period using ships or aircraft as the case may be for the purpose of such business.

the Board shall if satisfied with such proof, accept the same as evidence of public convenience and necessity and issue its certificate accordingly. Provided, however, that a ship temporarily out of service during the period of twelve months aforesaid shall nevertheless be deemed to have been in use during such period.

Provided further that notwithstanding anything in this Act contained, if upon an application by a bulk carrier for a licence it is shown that the ships in respect whereof the licence is sought have been prior to the coming into force of this Act bona fide in use in the business of transport (which shall for the purpose of this subsection include the carriage of goods in bulk) either in or in respect of the sea or inland waters of Canada or between points or places in Canada, or between points and places in Canada and points or places outside of Canada, the applicant shall be entitled as of right to the licence sought and the Board shall issue or cause to be issued its licence accordingly.

The purpose in suggesting the foregoing amendment is to make it perfectly clear that ships now operating on the Great Lakes whether engaged in the transport of goods in bulk or other goods shall be entitled to a licence as of right.

It is submitted that the Act as now framed would restrict the power of the Transport Board in the issuance of a licence, making it impossible for them to issue a licence unless the applicant is able to show that within twelve months



preceding the coming into force of the Act, his ships were engaged in a particular trade and that under clause (c) of Subsection (2) the applicant could only get a licence enabling him to carry on business to the extent to which he had previously used such ships in the particular trade.

In other words, unless the applicant could prove that he had previously engaged in the carriage of particular commodities between specified points, the Board would have no power to issue its certificate of public convenience and necessity. Package carriers might be able to comply with such rules and regulations but bulk carriers being tramp steamers cannot tell from year to year what commodities they expect to carry and as they are now free to operate in any class of trade in which they are able to compete, they should not be deprived of obtaining a licence to continue to do so.

4. Amend Section 12 by striking out clause 4 and inserting in lieu thereof the following:—

4. The provisions of this Part shall not apply to a bulk carrier or in the case of the transport of goods in bulk.

The reason for suggesting the foregoing amendment is to avoid the provisions of Section (10) in which it is provided that the licence may state the Ports between which ships may carry goods and the schedule of service which shall be maintained.

It is not feasible for tramp steamers to operate between any particular Ports as they must be free to operate a tramp service between Ports where cargoes are available.

5. Amend Section 25 by adding a new subsection (3) as follows:—

(3) Nothing in this Act contained shall require a licensee operating bulk carriers to transport or accept for transport by water any cargo or part cargo when such licensee considers it inadvisable to transport or accept for transport either because of the quantity offered, destination or routing thereof, the nature of such cargo or part cargo, or other circumstances, and nothing in this Act shall be construed as constituting such licensee a common carrier.

The purpose in asking for the foregoing amendment is to avoid classifying bulk carriers as common carriers.

The provisions of Part (4) of the Act with respect to the filing of various tariffs and the obtaining of licences to carry all kinds of goods, would have the effect of making the licensee a common carrier and it is pointed out that bulk carriers operating a tramp service must continue to operate under private contract as they would not be able to pick up small quantities of cargo consigned for Ports at which they would not ordinarily call, and the bulk carrier should be left free to refuse cargo if he chooses to do so and should not be classified as a common carrier.

6. Amend Part 5 by adding a new section (4) as follows:—

(4) The provisions of this part shall not apply in the case of transport of goods in bulk.

This amendment appears to be necessary as "carrier" is referred to in Section (35) and is defined in the Act as drafted as "any person engaged in the transport of goods or passengers for hire." It is acknowledged that it is not intended that this Part shall apply in the case of transport of goods in bulk. It is submitted that the foregoing amendments are necessary to enable the efficient and economical operation of bulk carriers.

Respectfully submitted by

G. P. CAMPBELL,

*Counsel for the above Companies.*

MAY 16, 1938.



The DEPUTY CHAIRMAN: Gentlemen, that completes our agenda for this morning. We will meet at 4 o'clock this afternoon to hear the railways in rebuttal. We are through with all the evidence that was to come before the committee.

The committee adjourned at 12.25 o'clock p.m., to meet again at 4 o'clock p.m. this day.

### AFTERNOON SESSION

The committee resumed at 4 o'clock p.m.

The DEPUTY CHAIRMAN: Order, gentlemen.

GEORGE A. WALKER, K.C., recalled.

The WITNESS: Mr. Chairman and gentlemen: When the railways were before you—

Hon. Mr. STEVENS: I think we should invite the Senate committee in here to see the measure of co-operation existing between the railways, Mr. Chairman.

The DEPUTY CHAIRMAN: It might have such a bad effect that they would not sit again.

Hon. Mr. STEVENS: They would get a model here.

The DEPUTY CHAIRMAN: Yes.

The WITNESS: When the railways were before you last week, gentlemen, we dealt with the contentions of the Manufacturers' Association with regard to agreed charges which we thought fairly represented all of the objections that might be made to agreed charges. Since then we have listened to the objections of various interests and as their objections, so far as they relate to agreed charges, are interlocked more or less with their objections to the other provisions of the bill I propose with your permission to deal with each submission very briefly. There has been so much said that I naturally can only touch on the objections in broad outlines, and I hope if any member of the committee feels that I am passing over a point that is essential he will feel free to ask any question.

First, with regard to the submission of the companies represented by Mr. Campbell: He contrasts in opposition two groups of water carriers and his contrast is very striking—the Canada Steamship Lines, which maintain a regular and dependable port-to-port service for the carriage of package freight, as well as a number of tramp steamers engaged in bulk freight, are in support of regulation; the tramp lines which control, or assert that they control, some 60 per cent of the tonnage are opposed to regulation. Now, the reasons for that are quite obvious. The tramp steamers frankly say that they should be allowed to take return cargoes of freight to the head of the lakes or from port to port, at whatever rate applies. They attempt to justify that by saying that the earnings from this class of traffic are reflected in reduced rates on grain. That statement is categorically denied by the vice-president of the Canada Steamship Lines who said at page 95 of the record that the rates on grain are controlled by the international competitive situation, and that there is no relation between the rates on the movement of grain and those on other commodities. In point of fact, gentlemen, the tramp steamer which has unloaded a cargo at Montreal for example and is looking for a return cargo to, say, Fort William is to-day in a position to quote any rate it pleases on a shipment of package freight. It may make one rate for one shipper and another rate for another shipper on the same boat moving between the same points, even though they move on the same vessels. It may make these rates without any regard

[Mr. G. A. Walker, K.C.]



to the cost of the service to the steamer or of the value of the service to the shipper; and in fact we suggest they will do so for the natural alternative is to return light. Now, that, gentlemen, is the very evil which existed before the regulation of the railways and it is the very evil which this bill is designed to prevent. Then, at page 75 of the record—

*By Mr. McCann:*

Q. Is that an assumption or have you a concrete case?—A. You mean, with regard to their taking cargoes at whatever prices they can get?

Q. No, with reference to taking at any price, or in the same steamer at different prices?—A. I do not know about the two cargoes on the same steamer, but I certainly understood Mr. Foote this morning to say that that was the privilege that he feared would be taken away from him by this bill, that he would not be able to take a cargo.

Q. It is a practice rather than a privilege?—A. I would not say that. I have no knowledge as to whether that is so or not. But I think in the light of the evidence that has been given here by the shipping companies it obviously must be the practice.

*By Mr. Isnor:*

Q. You say they cannot fix rates on grain. These ships brought full cargoes down to the lakes?—A. They would have certain offerings for return trips.

Q. The earnings at the end of the year would naturally effect any rate that might apply on that.—A. I quite agree it would be reflected in the earnings of the steamship companies, but my submission is it would not be reflected in any reduction in the rate on grain; that that rate is governed by the demand at Liverpool, and by the number of bottoms available at Fort William from time to time. It certainly is not reflected in that rate. And a return cargo from the east, while it may be more profitable to the ship owner, I suggest to you does not on that account reduce the rate on grain.

*By Hon. Mr. Stevens:*

Q. Before you leave that subject, I wonder if you would agree with this: In the first place, the question of grain rates is of vital importance to our farmers. I think there can be no question about that?—A. We are all agreed.

Q. Am I correct in saying that the price on grain we will say at Winnipeg or Fort William, which is the point at which the price is fixed for the Winnipeg market—would you agree that that rate is really determined by the Liverpool quotation less the ocean rate less the lake and rail or lake freight?—A. Well, so far as the farmer is concerned I think the only deduction is the freight to Fort William. I do not understand that his price is in any way governed by the ocean.

Q. I think it is important to determine that. I would like to be contradicted if I am wrong.—A. I have always—and it has been confirmed to me by some of our traffic officers within the last day or two—been under the impression that the western farmer markets his grain on the Winnipeg price less the freight from Fort William. Mr. Jefferson, our freight traffic manager, confirms that.

Q. But we are on a slightly different point; that is dealing with the rail rate which is fixed?—A. I was looking at it from the standpoint of the price to the farmer.

Q. No matter, we will drop the rail rate out of the picture because that is a different rate; but the rest of the rate, the lake and rail or the lake rate is a fluctuating or changing rate.—A. On grain?

Q. On grain?—A. Yes, it certainly is, as to that lake movement.

Q. Therefore, if the rate on the lakes rises 1 cent or  $\frac{1}{2}$  cent or whatever it may be, it does affect to the same degree the price on the Winnipeg exchange?—A. No, sir, I am assured not by everyone who knows anything about it.



*By Mr. Young:*

Q. How could it happen?—A. Because the rates on grain are fixed in Winnipeg. The best illustration that I know of in that connection is this; that when the result of the board's decision in the matter of export rates on grain to Vancouver became known our rail rate to Vancouver was reduced. The very day that our rates were reduced the rate on ocean carriage went up proportionately.

*By Hon. Mr. Stevens:*

Q. Quite so, that is my point. That is exactly what happens; or, what affects the rate affects the price of grain. We will take Vancouver, if you like. It is the cost of moving from Vancouver to Liverpool that fixes the price that may be offered for that grain on the Winnipeg exchange. I agree with you that if you lower freight rates there is a tendency on the part of ocean rates to raise. That is one of the arguments of the railways, I know, and perhaps it may be accepted; but what I am getting at is you have a rate to Fort William which is a fixed rate in relation to the price at Liverpool. Now, obviously, the cost of moving that grain, the rate of freight for moving that grain from the head of the lakes to Montreal and from there to Liverpool does affect the price the farmer would get —  $\frac{1}{2}$  cent, 1 cent, 2 cents — as the case may be.—A. Well, I must confess I have always been led to the opposite conclusion, sir; but I do not profess to be an expert on the marketing of grain.

Q. Let me give you another question:—

Mr. MAYBANK: Do you mean the head of the lakes price is the Liverpool price minus the transportation costs?

Hon. Mr. STEVENS: Yes.

Mr. MAYBANK: It would not account for all of it.

Hon. Mr. STEVENS: I admit there is the element of judgment which might enter into it slightly. It is the practice—

Mr. MAYBANK: Over a long period of time.

Hon. Mr. STEVEN: Yes, it is the practice.

Hon. Mr. STEVENS: Yes, it is the practice.—A. Well, Mr. Stevens, if the price in Liverpool is 75 cents today, we will say, and two grain dealers in Winnipeg are selling on that market, one man may have his grain booked right through, he may have a contract for the transit down the lakes and he may have cargo space across the ocean. Let us say the total cost is 17 cents. Now, the other man may sell grain the same day in Liverpool and he gets the same price for it, but if he has to go out and bargain for his space on the lake and his space on the ocean, he may have to pay more than the man who has already got his space booked on more favourable terms. But I suggest that that does not affect the price to the farmer one iota. That is a matter of profit and loss to the grain dealer.

*By Mr. Young:*

Q. But take it over a season. Let us say it costs an additional 10 cents to get it from Montreal to Liverpool. Do you mean that that would hold?—A. I am out of my depth there, sir.

Q. Well, it could not be otherwise, surely.

*By Hon. Mr. Stevens:*

Q. I am not through with my point. I see you do not admit that factor as an element in the price of grain, but would you admit this: That if the cost of the movement of grain increases on the lakes it correspondingly lessens the amount that would be received by the farmer?—A. Well, I would say no.

[Mr. G. A. Walker, K.C.]



Q. You would say not?—A. Certainly not with reference to that particular consignment of grain, because that transaction has gone over the dam. But you say for a season's operation?

Q. I am speaking of year in and year out. You will admit that for Liverpool price is the price upon which the grain at Winnipeg is fixed?—A. Yes sir.

Q. Without labouring my other argument, it must be affected by the cost of the movement of that grain between Fort William and Liverpool?—A. I doubt it.

Q. And if that cost increases then the farmer would suffer?

*By Mr. Heaps:*

Q. Some one has to suffer, Mr. Walker?—A. Yes.

*By Hon. Mr. Stevens:*

Q. You surely will admit that?—A. Well, I do not know, frankly, if that is the way it works or not.

*By Mr. Heaps:*

Q. You do not know who would suffer?—A. No, I do not.

*By Hon. Mr. Stevens:*

Q. It seems to me that that is elemental but tremendously important in this whole business.—A. I do not follow its importance, Mr. Stevens, since the rates on grain are not to be regulated by this bill.

Mr. MAYBANK: May I interpose and suggest the possibility of several people between the farmers and the Liverpool merchants who would take up a part of the loss or who would grab part of the grain?

Hon. Mr. STEVENS: That is true enough. I will frankly admit that.

Q. You admit this, then, Mr. Walker; that the grain business is a highly competitive business, I mean, the movement of grain?—A. Oh, unquestionably, yes.

Q. That takes care of what was mentioned a moment ago. Now, let us go a step further. You mentioned a moment ago that the cost of the movement of grain from Fort William to Montreal was determined by the American competition?—A. No, sir, I did not.

Q. Well, I misunderstood you.—A. I said it was determined by the number of bottoms that were available at Fort William at any given period of time, and the amount of demand for grain in Liverpool.

Q. Did you not quote Mr. Enderby as saying that the rates on grain from the head of the lakes were determined by the American competition?—A. Yes, sir, I quoted Mr. Enderby as saying that.

Q. I gather you advance that now as your argument?—A. Yes, but I was not referring to the international movement down the lakes. I was referring to the internationally competitive market.

Q. Well, we are talking about two different things. Mr. Enderby was speaking about the rate for the movement of grain from the head of the lakes to Montreal, and that it was determined, as you yourself quoted a moment ago, by American competition. I wish you would repeat what you said a moment ago. I may be wrong.—A. I quoted his exact words, that the rates on grain are controlled by the internationally competitive situation.

Well, now, I understood him to mean by that nothing more than this; that since all the boats on the lakes are engaged in the transit, some of them to and from American ports and some of them from Canadian to American ports, and so on, that if the number of bottoms available on a given day are greater than



the tonnage that is offering, the rate on grain is liable to go down a bit. If there is a scarcity of bottoms and a great demand for space, the rate goes up.

Q. Is that the interpretation you put on Mr. Enderby's statement?—A. Yes, sir, that is the interpretation I placed upon it.

Q. Well, of course, I would interpret it differently, but even taking it on that basis, you will admit that ship owners can stay in business only a certain length of time if they are working at a loss? Sooner or later they would go out of business, and if they are to stay in business they must make operating costs plus a small profit, at least?—A. Yes, sir.

Q. You were arguing, and I think one of the other witnesses argued, that the amount of return cargoes available to the bulk carriers did not influence the rate on grain. That is your position?—A. Yes.

Q. All right. Now, if the bulk carriers cannot secure reasonably adequate return cargoes, or a share of the return cargoes, then they must either go out of business or rates must come up.—A. Rates on grain must come up?

Q. Yes.—A. That would follow, certainly, but I go further than that, and I say that this bill will not restrict his ability to get return cargoes at all. All that it will prevent him from doing is carrying one shipment of a given kind for one man at a certain rate and for another man at a lower rate between the same points. That is all. It simply stabilizes rates, Mr. Stevens. My suggestion is that this bill will not necessarily increase rates, nor necessarily lower rates; but it will certainly stabilize them and it will prevent discrimination. Now, that situation will not apply with regard to grain at all, but it will apply to return cargoes.

Q. You are speaking of the Act as it is now drafted?—A. Yes, sir.

Q. Then surely you do not argue on that basis that subsection E of clause 2 is sufficient protection for the bulk carrier getting a fair share of return cargoes? He is there eliminated with the exception of these— —A. Oh, no, sir, no, no, no. You are putting, I suggest, an entirely erroneous construction on the statute. Subsection E of paragraph 2 takes certain classes of goods in bulk out of the operation of the statute.

Q. Quite so.—A. So long as a man is exclusively a bulk carrier, he does not need any licence, and he does not need any regulation; but if he is going to be a bulk carrier south bound and a package freighter north bound, he does require a licence. Now, his rates are not regulated while he is engaged as a bulk carrier. But if he is going to take package freight back, or if he is going to carry package freight from port to port on the lakes when he is not engaged as a bulk carrier, then he is no common carrier, and I will deal with that in a moment. But he is bound to carry the same class of goods for the same people or for all people between the same points at the same rate. And so are all his competitors. So I say as regards rates that it will not necessarily either increase or lower them.

Q. That is, if he is licensed?—A. Yes, sir.

Q. But if he is not licensed then he cannot carry these additional bulk goods? —A. Oh, no, no.

Q. Such as pulp baled, lumber and other things of that kind?—A. Well, you call that bulk freight; with deference, I do not.

Q. You would not call it package freight?—A. I do.

Q. You would not class it as package freight according to the Railway Act. —A. Yes, we do, with respect.

Q. You classify lumber as package freight?—A. We classify package freight precisely as this definition defines it; that is to say, goods in bulk means goods laden or freighted and not enclosed in bags, bales, boxes, cases, casks, crates, or any other container. Now, that is the line of demarcation between bulk freight and package freight in railway circles.

[Mr. G. A. Walker, K.C.]



*By Mr. Isnor:*

Q. There is a difference between logs and pulpwood and dressed lumber?

—A. Quite.

Q. Dressed lumber does not come under the bulk section.

*By Hon. Mr. Stevens:*

Q. Dressed lumber is package freight, according to you?—A. Yes. Well, lumber is not mentioned here at all.

Q. Lumber automatically becomes package freight, according to this bill?

—A. Yes, lumber would.

Q. Well, it is not so classified under the railway tariffs.

Mr. JEFFERSON: Lumber is not packaged goods, no.

*By Mr. Howden:*

Q. Does it qualify as bulk freight?

Mr. JEFFERSON: No.

*By Hon. Mr. Stevens:*

Q. What I am getting at is that under this bill lumber will become to all intents and purposes package freight.—A. Well, it will certainly not be goods in bulk.

Q. And it is not package freight if it is carried by the railways today, it is a commodity and gets a commodity rate? That is right, is it not?—A. That is right.

Q. I was just looking over some of these other items that are mentioned. For instance, take sulphur, would you call sulphur package freight?—A. It depends on how it is transported. If it is transported in bulk, no; if it is transported in sacks or barrels, yes.

Q. Under this bill it becomes package freight. Mr. Walker laid it down that this bill drew the line of demarcation between bulk and package freight, the same as the railways.—A. Yes.

Q. He admits that in connection with lumber he is wrong; what about sulphur?—A. I say if sulphur is transported in bulk it would be goods in bulk.

Q. It is commonly transported in bulk, is it not?—A. I do not know.

Mr. JEFFERSON: Yes, it is.

*By Hon. Mr. Stevens:*

Q. Then it becomes package freight under this bill?—A. No, sir, it would not, because it is clearly a mineral. For example—

Q. Mr. Walker, just a minute. I want to progress on your own ground. A moment ago you said that this bill defined package or bulk freight exactly as the railways did and you quoted the bill which defines bulk freight. I have taken you through lumber and sulphur and you admit that neither of these would be package freight according to rail classification. Let us take sand.—A. Just a minute. I said that sulphur would not be package freight if it was loaded in bulk and not bagged or casked or barrelled. If it were bagged or barrelled, it would be package freight.

Q. Yes, but under this bill it is not bulk freight, and if it is not bulk freight it is package freight.

Mr. McCANN: It can be both.

Hon. Mr. STEVENS: I am talking about this bill.

The WITNESS: You mean because sulphur is not specifically mentioned it cannot be bulk freight, is that your point?



Q. Quite so.—A. I would not agree with you because it is clearly a mineral. This says ores and minerals (crude, screened, sized, refined or concentrated).

Q. You classify sulphur as an ore?—A. I would class it as a mineral, unquestionably.

Q. Well, you might get away with sulphur in that regard. What about building stone, for instance?—A. Stone is excluded.

Q. Oh, yes, it is excluded. Well, take wood pulp baled, would you class that as package freight?—A. If it were baled, yes.

Q. Simply because it is baled it is package?—A. Yes.

Q. And excluded from the bulk?—A. Yes.

Q. And you argue that it should be excluded?—A. Yes.

Q. I can't agree with you there. Then take for instance the movement of flour eastward; at present it moves at the same rate as grain?—A. Oh no, indeed, sir.

Q. Substantially the same?—A. No, nothing like the same rate, sir. We are anticipating. I will deal with that point right now, if you wish. The rate on flour in the year 1937—

Q. What rate are you quoting now; are you quoting the tramp steamer rates or the head of the lakes rates?—A. I am going to give you them all, sir. The rate on flour in the year 1936, lake and rail was 17 cents; all water was 15 cents—

Q. That is wheat?—A. Yes, sir. These are the export rates because those are the only ones that were really on the basic 17 cents lake and rail, 15 cents all water; and tramp—no one knows. There is no means of ascertaining. The rate on grain in the same year varies from 5.43 cents to 3.67 cents per bushel; that gives you a weighted average rate of 4.4 cents per bushel, or 7.3 cents per hundred pounds.

Q. Yes?—A. That situation exists every shipping season that passes. The rate on grain fluctuates as you will see in the year book that is issued by the Grain Commission. You will find the rate on grain fluctuating from June until November.

Q. Right?—A. And the rate on flour each year remains constant. There is a differential between the lake and rail and the water; and what the tramps may carry it for we do not know.

Q. What objection do you have to including flour and baled pulp in this bulk?—A. Our objection is simply this, sir, that it is not a bulk commodity, that it is package freight. And we say in answer to the argument put forward by Mr. Pitblado that it is about time, take the year 1937—the year in which I suggested the figures at the last hearing and Mr. Pitblado took me somewhat to task for them—in 1937, 54.2 per cent of the flour for export moved lake and rail plus a rate of 17 cents; 45.8 per cent moved all water for export at 15 cents—no, I should not say at 15 cents—45.8 per cent of it moved all water. Now, of that 45.8 per cent 76.3 per cent moved on the boats of the Canada Steamship Lines at a rate of 15 cents—

Q. Would their tramp boats carry it at 15 cents?—A. I beg your pardon?

Q. Would their tramp boats carry it at less?—A. No, their flour I understand is largely handled on their tramp steamers, but they elected to maintain a rate of 15 cents on the flour that they handle. At least, that is our information, and Mr. Pitblado I gather does not challenge it. They do that because they believe in a stabilized basis of rates on flour. Now, tramp steamers have carried the remaining 11 per cent—because these two figures give you a combined handling by the lake and rail and by the Canada Steamship Lines of 89 per cent—the balance of 11 per cent moved on tramp steamers which do not profess to maintain any stability of price.

Q. Why not leave them with that?—A. Well, it is entirely a matter of principle, sir. We do not suggest that the loss of that 11 per cent is a vital

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factor for us, but we say that if you are going to regulate the carriage of package freight there is no reason in the world why you should exclude any one commodity from regulation.

Q. You keep using this term "package freight." I would like to see a definite railway interpretation of what package freight is, because I question very much if in the ordinary use of the term package freight the railways include all carload lots of stuff that is in bales or casks?—A. There is no question about that, sir.

Q. I question it.—A. There is no doubt about it. I am sorry I cannot go any further than that.

Q. You have some experts here?—A. They will be glad to supply the information, Mr. Stevens.

Q. I ask this question: What is the standard definition accepted by the Interstate Commerce Commission—which is the authority in that respect—under their regulations what constitutes package freight?—A. I will ask our Mr. Jefferson to answer that.

Mr. C. E. JEFFERSON, Freight Traffic Manager, Canadian Pacific Railway: Package freight is any freight that is in the classes in this subsection E of section 2, which includes bags, bales, boxes, cases, casks, crates or any other container. That is package freight.

Q. (To Mr. Jefferson) I know, but is that the interpretation the railways always fix their tariffs on when they discuss in ordinary conversations and from day to day the term "package freight"?—A. Yes, sir; and that is the way we describe it in our tariff or classifications when we name a commodity and say how it will be shipped.

Q. (To Mr. Jefferson) Irrespective of whether it is shipped in carload lots or not?—A. Yes, sir.

*By Mr. Hamilton (To Mr. Jefferson):*

Q. Might I ask about steel rails, is that package freight?—A. Of course, steel rails are just steel rails. We do not use any other term for them; we do not say they are package freight or bulk or anything. It is a commodity by itself. We have so many classifications, many in bulk or bag among them. A commodity like rails is always shipped for what it is. It could not be shipped in any other way.

*By the Deputy Chairman (To Mr. Jefferson):*

Q. Have you got some classification for lumber?—A. Lumber?

Q. In small lots or otherwise. You usually consider that bulk, don't you?—A. That can be considered a bulk commodity or package commodity; but it is just lumber.

*By Hon. Mr. Stevens (To Mr. Jefferson):*

Q. Is cement always described as package freight by the railways?—A. Unless it is shipped in bulk.

Q. It is never shipped in bulk, hardly?—A. It might be in a car just the same as wheat. We just describe it as in bulk or in bag. It be shipped that way.

*By Mr. Howden (To Mr. Jefferson):*

Q. When it is shipped in bags it becomes package freight?—A. Yes, sir.

*By Mr. Elliott (To Mr. Jefferson):*

Q. Certain kinds of dressed lumber are put up in packages; are they classified as package freight?—A. You are getting into the higher grades of lumber. Yes.



*By Mr. Mutch (To Mr. Jefferson):*

Q. As to the general classification of freight rates, could you give us any idea of how often those rates are revised?—A. It is not revised except as new commodities develop or new methods of shipping develop.

The DEPUTY CHAIRMAN: Go ahead, Mr. Walker.

The WITNESS: Might I refer very briefly to one objection that has been urged constantly by the shipping companies to application of regulation? Mr. Campbell brought up, and it was referred to this morning by Mr. Hutchinson, I think—that their fear is that they will be regarded as common carriers if they are permitted to handle package freight of the kind they want to handle. If you will look at section 312 of the Railway Act you will notice—I will have occasion to refer to this later—that so far as the railway companies are concerned the companies are required to furnish at the place of starting, and so on, “adequate and suitable accommodation for the receiving and loading of all traffic offered for carriage on the railway”; and then they go on with an elaborate set of provisions to set up the measure of the railway company’s obligation. Now, you find no such provision in this bill. All that it provides for is that on the application of a shipping owner or operator a licence may be issued and he by that licence becomes permitted to engage in the carriage of merchandise generally. But there is no obligation whatever on the shipping owner such as is imposed on the railway companies to carry all the traffic that is offered to him, and there is not a single reason why every one of these objections that have been urged by the water carriers to this bill should not be amply provided for by tariff provisions. For example, Mr. Hutchinson, I think it was, this morning stated that he did not want to be put into the position of carrying a small package for somebody. Mr. Campbell the other day stressed that point—he did not want to be put in the position of having to accept 150 tons of freight for carriage from Montreal to Toronto, for example, if he was not going to Toronto. All of these objections can be taken care of very simply by providing in the tariff which I suggest could be published by all of these companies collectively—Mr. Campbell assured us they were getting together in matters of common concern—they could be covered by a tariff which would limit the obligation of the operator to accept goods of any particular character below a certain minimum which would limit his application if he did not propose to call at a port of destination on that particular itinerary, and it would limit his obligation if he did not have room on his vessel. All of these things can be taken care of by tariffs. And I suggest that Mr. Campbell is altogether too good a lawyer to suggest that a ship owner is any more a common carrier than he holds himself up to be. I mean to say all that the statute does in regard to these water carriers is this: if you have engaged in the carrying of commodities and if you hold yourself up to carry merchandise from Toronto to Montreal, or Montreal to the head of the lakes, you must charge the published rate equally to all people. Now, that is just as far as it goes and no further.

*By Hon. Mr. Stevens:*

Q. If a tramp steamer was at Montreal and we will say it is licensed under this Act and it accepts a shipment of 500 tons from one shipper for the head of the lakes, and another shipper comes along with 5 tons and another 10 tons and so on that they could refuse to take that?—A. No, sir. I did not say they could refuse to take it if they were going to deliver goods for the other man and they had space on the vessel.

Q. Is not that in effect what a common carrier is? It is in effect what a common carrier means.—A. Yes, a common carrier is a person who holds himself out to carry any commodity, if you like, or all commodities. He can become whatever kind of common carrier he wants to be, and they are doing it to-day.

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*By Hon. Mr. Stevens:*

Q. And he is under obligation to anyone who offers freight at that point?—  
A. No, sir, only the kind—

Q. Of a similar kind at the same rate as anyone else?—A. Yes, sir, that is all. That is the whole measure of his obligation.

Q. You recognize that these tramp steamers are not equipped for carrying small lots?—A. They do not need to hold themselves out to carry small lots, Mr. Stevens.

Q. You are stopping them from carrying these bulk shipments by this bill, the class of stuff that they have been used to carrying, such as pulpwood, sulphur, baled hay and binder twine?—A. Well, they can still carry those commodities whether you regard them as bulk or whether you do not regard them as bulk. If you include them in the bulk exemptions and they need no licence to carry them then they are not bulk goods and they can still carry them provided they carry them for all people at the same rates.

*By Mr. Howden:*

Q. Does not the licence impose the obligation to carry whatever freight they are offered?—A. No, sir, clearly not.

Mr. YOUNG: On that point, Mr. Chairman, I do not know that we need argue it at great length for I believe it would be the opinion of the committee that if there is a doubt as to the meaning of it to-day, that they will not have that obligation, I think that doubt must be removed.

The DEPUTY CHAIRMAN: Proceed, Mr. Walker.

The WITNESS: Then, sir, may I pass on to the objections that were urged by Mr. Duncan on behalf of the Automotive Transport Association.

*By Mr. Howden:*

Q. Before you go on, you do state definitely that there is nothing in the statement of the tramp owners that if they become licensed carriers they will be obliged to carry small lots of freight to points out of the ordinary course of their trade?—A. I say that without hesitation, unless they publish a tariff providing for it and do not protect themselves by suitable tariff provisions. I say they can protect themselves against that by a tariff provision, without any difficulty whatever.

Q. Yes, but must they issue that prohibitive tariff in order to avoid—  
—A. No, sir, they must not. There is no obligation on them to do that. But if they do carry for one, they must carry for the other. That is the point.

*By the Deputy Chairman:*

Q. And the tariff provisions are going to be settled by the railway board?—  
A. Yes, sir.

*By Mr. Heaps:*

Q. What is happening to-day is that these steamers have got what they term agreed charges?—A. Yes.

Q. They have what is in the bill to-day?—A. Yes. Mr. Foote said that was an essential part of his business, as I understood him.

Q. And now they do not want it?

Mr. BERTRAND: No, they do not want the others to have the same privilege.

The WITNESS: Now, Mr. Chairman, may I deal with the contentions of the Automotive Transport Association?

Mr. Duncan's contentions may be briefly summarized in this way:—

(1) That the whole of the L.C.L. traffic for minimum distances is logically and economically the field of the truckers.



- (2) That the railways have been hauling L.C.L. freight at a loss, and the bill is designed to enable them to go still further in that direction.
- (3) That part 5 of the bill will enable the railways to conceal their rates from their competitors.
- (4) That the proper remedy, in his suggestion, is co-ordination, which he suggests should be brought about by better provincial regulation and by agreements between truckers to maintain rates on a fair basis.
- (5) He suggests that that co-ordination can be advanced by certain amendments to the present bill.

Now, sir, on any footing of fair competition, we freely admit the place of the motor truck in the transportation field. But what we ask the committee to consider is the relationship of the two carriers today. A great deal has been said about the provisions of the Railway Act with regard to equality of rates, but there is another aspect of the question which has not been alluded to at all, and that is section 312 of the Railway Act to which I referred a moment ago and which places on the railway company the obligation to maintain proper facilities and to receive and carry and deliver at all times—good times and bad times alike—and in all seasons all the traffic that is offered for carriage on the railway.

Gentlemen, that is only the foundation of the railway company's obligations. We must maintain all those facilities in a high state of efficiency. We cannot remove a station agent without the approval of the Board of Railway Commissioners. We cannot close a station without the approval of the Board of Railway Commissioners. We cannot abandon a mile of track without the approval of the Board of Railway Commissioners, and so on through every activity of the railway company in which the public have any interest whatever.

Now, contrast that, if you will, with the position of the trucker in Canada today, who accepts what traffic he will, who carries it at whatever rate he pleases and who today carries it on the basis of agreed charges, ten years, gentlemen, after motor truck competition, according to Mr. Patton, became effective, or on the basis of cut rates, or whatever basis you like.

*By Hon. Mr. Stevens:*

Q. All of which you think is bad?—A. Yes, sir, all of which we are convinced is bad.

Q. Yet you want to launch into agreed rates yourselves?—A. Yes, sir, but not on the basis on which the trucker makes them, not on any basis of concealment, but on the basis of complete publicity and with notice to everybody who is affected by them.

*By Mr. Cameron:*

Q. Regulated agreed charges?—A. And with a direction to the Board of Railway Commissioners who approve the agreed charge that if it creates discrimination they shall fix a rate for the person discriminated against which will remove that discrimination.

*By Hon. Mr. Stevens:*

Q. Yet there is nothing in this bill dealing with your complaint of the trucker at all?—A. Pardon?

Q. There is nothing in this bill that deals with the complaint you have regarding the truckers?—A. No, sir, but we all know that the reason for that is because of the constitutional difficulty. Last year when provisions with regard to the regulation of trucks were included you had the truckers appearing in a body before the Senate protesting vigorously against their inclusion. That is all they contended for last year—just leave us out—but today they come and say, "True, we are not in the bill, we do not come within the scope of its

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provisions, but we nevertheless want to be heard when the railway companies' agreed charges are fixed." In other words, they say, "Leave us in our blissful position of secrecy regarding agreed charges and rate cutting, but when the railway company and its patron get together to agree on a charge we must be heard to object that the rate is not reasonable." Now, that is the attitude of the trucker today.

Hon. Mr. STEVENS: I would not like to leave the impression that I am defending the truckers. I am entirely in agreement with your criticism of the truckers, but I still contend that this bill does not affect that situation in any single instance.

Mr. MUTCH: The bill just asks for permission to fight fire with fire.

*By Mr. Howden:*

Q. You mentioned open publicity of these rates which they contended would be secret?—A. Yes.

Q. I was not able to find that in the bill. I know that the rates must be agreed to by the Board of Railway Commissioners, but then that does not mean publicity.—A. You mean after approval?

Q. Yes. The Board of Railway Commissioners can approve these rates, but how are the competitors to know about the so-called agreed charges which some are calling secret rates?—A. May I ask if you mean by "competitors", truck operators?

Q. Let us assume that the railways enter into agreed rates with a shipper—A. Do you mean the shippers?

Q. No, no, the shippers are all right, but I am talking about the water carriers and the highway carriers; is there any means by which they can ascertain these agreed rates? It does not say so in the bill.—A. No, I confess, Mr. Howden, that some provision ought to be made.

Q. I think so.—A. I think some provision ought to be made in section 35 for the publication of these agreed charges when they are approved. When they come before the board for approval, the board obviously, unless they depart from their established practice of the past 34 years, will direct the railway company to notify everybody of the application for an agreed charge whom they consider may be affected by the application of that rate.

*By the Deputy Chairman:*

Q. That is before approval?—A. Before approval. I suggest, and in point of fact we have an amendment drafted to cover it, that when the agreed rate is approved by the board and becomes a lawful rate it should be published. I might as well put this amendment on the record now. The amendment we have in mind is to add to section 35 a new sub-section, 8 (a) in these words:—

All agreed rates shall, when approved, be published in the manner provided by section 331 of the Railway Act.

Q. What means of publication have you to let the others know what you intend to do?—A. Today?

Q. Today by the tariffs you are obliged to do it to satisfy the board, but if these agreed charges are agreed upon, what means are you going to take to let your competitors know that these agreed charges have been filed with the board?

Mr. HOWDEN: This amendment.

The DEPUTY CHAIRMAN: No, this amendment only refers to after approval. They have seven days in which to consider these agreed charges.

The WITNESS: Oh, no, sir, that is a misapprehension that I wanted to correct, because there was a great deal of discussion about that the other night.



Q. Go on with the other point, what means would you take as a railway company if you applied for an agreed charge to let your competitor know that this agreed charge had been applied for?—A. Well, I would assume, sir, that the board, if it were a competitive rate, a water competitive rate or a rate competitive with anybody subject to the provisions of this Act, would instruct us to notify them of the application.

Q. That is not exactly the impression that Mr. Guthrie left with the committee. The impression Mr. Guthrie left with the committee was that the applicant for a specified rate would be compelled to notify his competitors in advance before the board would agree on those agreed rates, and after the rates have been agreed they could show a list of nearly sixty names—A. That, Mr. Chairman, is a mere matter of mechanics. I am satisfied that we are all justified in assuming that the board will lay down regulations which will amply provide for notice to everybody affected by an agreed charge, including a competing carrier who is affected by the application of the rate.

*By Mr. Howden:*

Q. What about the element of secrecy? You have very little objection to that part of the bill, at all events?—A. No.

*By the Deputy Chairman:*

Q. Is there no possible way of providing in that amendment for this phase of the situation to be taken care of before the agreed charge has been approved by the Board of Railway Commissioners, what kind of advertisement should be used in order to give a chance to your competitors? After it has been agreed, I quite agree that your amendment is perfect.—A. Well, frankly—

Q. You want to do that by regulation at the present time?—A. I beg your pardon?

Q. You want to do that by regulation at the present time. You want to leave the onus of notifying your competitor in the hands of the Railway Commission before your agreed charges have been approved?—A. Well, I suggest that there is no finer provision in the Railway Act today for notice than this provides for. Today we can put in a competitive tariff without notice to anybody. Now, when we come to the agreed charge, we have to comply with the board's directions with regard to giving notice.

*By Mr. Heaps:*

Q. What notice is given at the present time by the board?—A. None at all with regard to competitive rates. We simply file them with the board and they become lawful rates within three days, unless somebody challenges them; and then the board investigates.

*By Mr. Mutch:*

Q. Are they not posted in every station?—A. Oh, yes. That is a provision I have already made with regard to agreed charges. They are to be in accord with section 331, yes. That is a provision I have now suggested making applicable to agreed charges.

*By Mr. Hamilton:*

Q. Publication after they become effective?—A. Yes.

*By Mr. Young:*

Q. Would you read section 331?—A. Yes. It reads as follows:—

Special freight tariffs shall be filed by the company with the board, and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect.

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2. When any such special freight tariff reduces any toll previously authorized to be charged under this Act, the company shall file such tariff with the board at least three days before its effective date and shall, for three days previous to the date on which such tariff is intended to take effect, deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of such tariff, at every station or office of the company where freight is received, or to which freight is to be carried thereunder, and also post up in a prominent place, at each such office or station, a notice in large type directing public attention to the place in such office or station where such tariff is so kept on file: Provided that the board may by regulation or otherwise determine and prescribe any other or additional method of publication of such tariff during the period aforesaid.

Then there is a corresponding provision that if the special freight tariff advances any toll previously charged, the notice must be for thirty days.

*By Hon. Mr. Stevens:*

Q. But, Mr. Walker, that special or competitive tariff applies to a tariff which is open to any shipper at those points where it is effective?—A. Yes.

Q. In this instance, you have provided agreement with an individual shipper, which agreement is completed; as far as you and the shipper are concerned, it is completed before the application is made.—A. Well—

Q. And the onus of demonstrating that it is discriminatory rests upon whomsoever may complain; and that can only be done after the completion of the agreement?—A. Well, with respect, I do not quite follow that, Mr. Stevens; because you speak of it as a private agreement, and you assume that the board are going to approve that agreement without any regard to the persons whose interests may be affected by it. I submit that that is an unwarrantable assumption.

Q. By the Act they may do so.—A. Well, if you credit them with complete disregard of the public interest, yes. But I suggest there is no warrant for that. In practice, the board are constantly advising us to notify this person and notify that person of all kinds of applications with respect to rates; and I suggest that they would do the same thing with respect to these agreed charges. In fact, I anticipate that they will be a great deal more circumspect in regard to publication in order to give notice to everybody affected.

*By Mr. Hamilton:*

Q. That is in advance of hearing the application?—A. Yes, in advance of hearing the application.

Q. May I ask a question with regard to section 35, subsection 4. It says that, on an application to the board for the approval of an agreed charge, certain people which it mentions shall, after giving such notice of objection as may be prescribed by the board, be entitled to be heard in opposition to the application.—A. Yes.

Q. Is there any provision at all whereby they would come to know about this application?—A. If you look at subsection 2 you will see particulars of an agreed charge—the shipper and the railway company get together and try to make a tentative agreement—because it is only a tentative agreement—which is submitted to the board; and the “particulars of an agreed charge shall be lodged with the Board within seven days after the date of the agreement and notice of an application to the Board for its approval of the agreed charge shall be given in such manner as the Board may direct.”

Conceivably the Board might be satisfied that there was only one other person in Canada who was going to be affected by this agreed charge, and they



would say to us, "You must give Jones, or Smith or Brown, notice of this application, so that he may be here." They might conclude that the agreed charge affected all the people in a given locality and they might say, "You must publish this in a newspaper" so many times; or they might prescribe a dozen people that we should have to serve with notice of an application to the Board.

Q. It is left to the discretion of the Board; and your reasoning is that the Railway Board, having in the past dealt with this, would deal with it in a very much similar manner?—A. Yes. And I suggest they will go further and lay down general regulations with regard to the publication of notice as they have done in regard to the publication of changes in the tariff and changes in classification and so on.

Q. Following that up, may I ask another question: Suppose an agreed charge was reached between the railway company and Jones, and somebody that was interested in it did not happen to come before the Board—had not knowledge of it or for some other reason did not come before the Board; what opportunity would he have to work out a similar arrangement with the railway company a month later? Would the railway company be under any obligation to deal with a new applicant in the same way as they dealt with Jones?—A. Yes; because if they did not, he would immediately write to the Board and say that the rate was discriminatory.

Q. Then you would be compelled to enter into another agreement, or the agreement you had already entered into with reference to Jones could subsequently be made to apply to different people on the same basis, where similar conditions existed?—A. Precisely.

*By Mr. Mutch:*

Q. Would you suggest, in connection with section 2, that it is practical within the terms of the bill to direct the Board of Transport as to the means which shall be taken to make this public? It does not say so. It says, "approval of the agreed charge shall be given in such manner as the Board may direct." My question is: Is it practical within the terms of the Act to direct the Board as to how it shall be done?—A. I think it is a refinement that is hardly necessary in a statute of this kind. The Railway Act gives a very wide discretion to the Board in a great many matters of vital consequence, matters just as vital as this, with no explicit directions as to how they are to achieve their end.

Q. Might it not eliminate some of the criticism which is directed towards this section?

*By Mr. Howden:*

Q. Before you go on, Mr. Walker, may I ask if it is obligatory on the Board to have such others notified as are interested, as you have suggested that they would do?—A. I would say so, sir. In this case, if the Board did not, they would be ceasing to exercise the function for which they are appointed; that is all.

Q. And it is their usual custom to do so?—A. Yes.

Mr. McCANN: Might I suggest, Mr. Chairman, that in my opinion it is practically impossible to cover every man by regulation.

The DEPUTY CHAIRMAN: Quite right.

Mr. McCANN: And may I also suggest that that might well be left to the discretion of the Board, which will try to protect the public.

The DEPUTY CHAIRMAN: That is exactly what the amendment proposes. The amendment proposes publication after agreement.

The WITNESS: Yes.

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The DEPUTY CHAIRMAN: And then leaves it to the board itself to decide how the advance information should be given.

The WITNESS: Yes, sir.

The DEPUTY CHAIRMAN: That is what the amendment proposes.

*By Mr. Bertrand:*

Q. When we are discussing this point, we should bear in mind what the Automotive Traffic Association told us in a letter which they sent to the members. They are in this privileged situation, that they can write, this is a copy of a letter that was sent by Mr. Perron, assistant traffic manager of the Abitibi Power and Paper Company Limited. He says:—

We are large shippers of paper in southern Ontario and use rail, water and road transportation agencies. Our competitors know what we pay when we ship by rail they think they know what we pay when we ship by boat and they do not know what we pay when we ship by truck.

If we force the railway companies to go and peddle the contracts they might have to any transport association before they can make a contract, I do not think it would be fair for the railways.—A. Oh, no. That would not be done. I certainly apprehend that when the contract is made and submitted to the board, the board will direct us to notify anybody interested.

Q. I am of your opinion; but it would not be fair for the railways, before they can enter into a contract, to go and ask any competitors, "Well, could you meet this contract?"—A. Oh, no.

Q. That is what it would come to if we had a change in the law as is suggested here.

Mr. YOUNG: I do not think so.

The DEPUTY CHAIRMAN: The amendment suggested comes from the railways themselves.

Mr. BERTRAND: It would mean before they could sign their agreed charges the truckers could reduce their rates. It would be absolutely unfair.

*By Mr. Heaps:*

Q. Under the amendment proposed by Mr. Walker, could not the trucks still come along and give a lower rate than the agreed charge proposed between the railway companies that they would like to submit to the railway board?—A. Yes, they could; but on the assumption that we are successful, they will not be able to take the traffic of a man who has entered into an agreement with us; because the purpose of making an agreed charge will be to have the binding undertaking of the shipper to ship his goods by rail—either all of them, or such proportion of them as he may control the route, or such proportion as the exigencies of his business permit; not necessarily 100 per cent, but all that he can control. Now, when we make him that rate, he undertakes with us that he will ship by rail.

Q. Suppose an agreement expires after a period of six months or twelve months, depending upon the length of time of the proposed agreement. There is nothing to prevent even these other forms of competition or forms of transportation from undercutting the price in the agreement already agreed upon?—A. Nothing at all.

The DEPUTY CHAIRMAN: All right, go ahead, Mr. Walker.

*By Mr. Isnor:*

Q. Before you go ahead, and following up that expression of Mr. Mutch in regard to section 35, sub-section 2, just look at the bill. After the word "given" in the 17th line it is suggested that an addition of words be put in there to make



it possible to publish the rates. I think that was suggested by one or two of the witnesses, and I have a note here as "319 of the Railway Act". Would that be in accordance with section 319?—A. No. That does not deal with publication at all.

Q. What does 319 deal with, if I may ask?—A. 319 is the section which prohibits us from carrying it at a lower rate for one person or for the persons in one district than for the persons in another district.

*By Mr. Young:*

Q. What paragraph did your amendment affect?—A. My suggested amendment was to go in as section 8 (a), sub-section 8 (a), and provided that agreed charges, when approved, should be published in the manner provided by section 331 of the Railway Act.

*By Mr. Isnor:*

Q. That is only after approval?—A. After approval, yes.

Q. This other would refer to before agreement—before coming to any agreement?—A. Well, there you simply have provision for such notice as the board may direct. I do not know why that should cause anyone any uneasiness, because it certainly is no wider discretion than is given to the Board in dozens of sections throughout the Act.

Mr. Chairman, Mr. Duncan's second proposition was that the railways had been handling l.c.l. freight at a loss, and the bill is designed for them to go still further in that direction. I do not propose to follow him through the mazes of his argument with regard to the relative taxation of the rail carriers and the motor carriers, for the reason that in my submission it has nothing to do with this bill. It is a subject that has been under investigation before the Chevrier commission in Ontario now over a period of five or six months. Nor do I propose to follow him through the somewhat fantastic figures by which he attempted to demonstrate that the Canadian National Railways deficits are attributable in any measure to the handling of l.c.l. traffic at a loss. That again, in my submission, has nothing to do with this bill, and the whole subject of Canadian National finances is now the subject of consideration by a committee of the Senate. Mr. Rand will, no doubt, make such comment on it as he sees fit; but, Mr. Chairman, if I may step out of my role for a moment of counsel for the Canadian Railway Association and speak for the Canadian Pacific Railway I would like to say with all the emphasis that I can that there is no officer of the Canadian Pacific Railway, be he vice-president or any other traffic officer, who is deliberately carrying or permitting to be carried l.c.l. traffic, or any other class of traffic, at a loss. The reason is obvious; because if traffic is carried at a loss by the Canadian Pacific Railway the loss does not, as Mr. Duncan suggests, come out of the taxpayers of the country, but comes directly out of the pockets of the Canadian Pacific shareholders; and I can assure you that any traffic officer of the Canadian Pacific Railway who embarked on a policy of carrying traffic at a loss in order to create volume would not last very long with the management of the Canadian Pacific Railway.

Now, then, Mr. Duncan spent a lot of time deriding the figures attributed to Mr. Flintoff and to Mr. Allen in the course of the Senate investigation last year with regard to the tonnage lost by the railways to the trucks. Admittedly they were estimates, if you like, guesses, because we have no possible means of knowing what the tonnage carried by the trucks is and can only arrive at it by some arbitrary method of calculation.

But who, one may ask, is in a better position than Mr. Duncan or his clients to give you accurate information? And have they done so? Did they give you a single figure with regard to the tonnage handled by the trucks, or a break-down of it as between l.c.l. traffic and carload traffic. Over and over

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again Mr. Duncan quoted l.c.l. traffic for medium distances. If you look at what he characterized as his text, it contains no reference whatever to the carriage of carload commodities, always it was l.c.l. traffic for medium distances. Now, what are the facts? Mr. Duncan himself might be surprised if he realized what conclusion may be drawn from his graph No. 2. This was the graph he introduced as No. 2 in his presentation; and if you look at it you will see that the line indicating growth in the registration of commercial vehicles shows that between the year 1919 and the year 1936 the registration of commercial vehicles increased from 5,000 in 1919 to nearly 200,000 in 1936. Then if you will look at the lowest line in the chart indicating the l.c.l. freight handled by the railways in Canada, you will see there was a comparatively small drop for the same period; that is between 1919 and 1936.

Now, I ask you, if the railways only lost between a million and two millions of l.c.l. traffic to the trucks in 1936, what were these 200,000 motor vehicles doing? Let me give you an illustration of what they were, in fact, doing. In the maritime potato case of which you have heard so much already, it was established in evidence before the Board of Railway Commissioners that in the year 1928—which again happens to be the year when Mr. Duncan told you truck competition became the real factor in the transportation world—the railway carloadings of potatoes in Ontario—and potatoes, gentlemen, are essentially carload traffic for the railways—were 25,051 tons. In the year 1934 that had dropped to 9,623 tons. Now, during all that period of time, from 1928 to 1934, the production of potatoes in Ontario remained constant; there was no fluctuation. We lost 36,000 tons of traffic in potatoes alone to the trucks in that period of time; and Mr. Duncan would have you believe that it is only less than carload traffic carried for a medium distance that the trucks are interested in.

Let me cite you just a few examples taken at random from the trucks competitive tariff on the Canadian Pacific Railway, which I think is all included, Mr. Campbell, in the tariff which you filed with the Board.

Mr. CAMPBELL: Canadian National.

The WITNESS: We have a corresponding tariff with the Canadian National, a tariff corresponding with the one which Mr. Campbell filed with the Board. Here is the truck competitive rate: on automobile engines from Walkerville to Oshawa, a distance of 257 miles, normal rate 37½ cents, truck competitive rate, 27 cents. Here is another: automobiles, Oshawa to Montreal, 301 miles, normal rate 83 cents, truck competitive rate \$25 per vehicle. Here is another: cement from St. Marys to Toronto—

*By Mr. Isnor:*

Q. Would you break that down so we can make a comparison?

Mr. JEFFERSON: Compared with the automobiles that would be about \$40.

The WITNESS: Cement, St. Marys to Toronto, 100 miles, normal rate 14 cents, truck competitive rate, 11 cents; cotton tire fabric from Drummondville, Quebec, to Kitchener, Ontario, 458 miles, normal rate 68 cents, truck competitive rate 54 cents.

*By Mr. McKinnon:*

Q. Sixty-eight cents per 100 pounds?—A. Yes. You can go down through innumerable commodities. As a matter of fact, I am informed that in the tariff which was on file there are 700 truck competitive rates thrust on the railway by effective truck competition with respect to purely carload traffic.

*By Mr. Heaps:*

Q. Would you mind giving me a little information with respect to the figures you have just given us. Who set that rate for the owners of the trucks?—A. For the owners of the trucks?



Q. Yes?—A. The trucker himself sets it.

Q. Is there any organization that sets it for the various companies, or do they have the same rate, or is that the rate for the individual owner of the truck?—A. These, Mr. Heaps, are the competitive rates made by the railways to meet competition by the trucks. The truck is usually still below these. The rates that I am quoting now are rates that we have made in an effort to get back some of the traffic that has been taken from us by the trucks, and the point I am making is that Mr. Duncan would lead you to believe that the trucks were carrying nothing more substantial than ladies' hats in a bandbox; whereas in point of fact the carload traffic that they are taking from the railways, and for long distances, is of ten times more importance than any mere question of l.c.l. traffic.

*By Mr. Hamilton:*

Q. The lower figures you gave us are the railway rates on a competitive basis?—A. Yes, sir; that is the railway rate that we call a truck competitive rate, because it is made to meet truck competition.

*By Mr. Heaps:*

Q. You have not the actual competitive figures?—A. No; the truckers rates are below these. What I call the truck competitive rate is the rate, the reduced rate we put in to meet competition.

Q. I did not quite get your first meaning.

*By Mr. Isnor:*

Q. You would put that low enough—you have knowledge, I suppose, of their rates—you would put the rates low enough to get back as much freight from them as possible?—A. Well, we have some knowledge, of course. We very often have to do a bit of guessing, as for example in connection with commodities like automobiles and so on, we probably would have pretty accurate knowledge of what rates they were quoting; but now in connection with potatoes, for example, I personally, when the case was coming up, interviewed a great many of the principal dealers in potatoes in Toronto and made an earnest effort to find out what the truck rates were, and the replies I got from every dealer that I saw was: "There are no truck competitive rates. We pay them whatever we can get by with. We have a trucker going out into the country to-day with a load. He is coming back light; anything that he gets over the price of gasoline and oil is velvet to him."

*By Mr. Young:*

Q. And loading and unloading?—A. Yes.

Q. He went on further to say that the rates that you had established or might establish under agreed charges were rates which would cause further losses to the company. Are you prepared to state whether or not the rates that you have established there, which you call truck competitive rates, are such rates that you do not have a loss?—A. Absolutely, sir. Every one of them is a profitable rate. I propose to discuss that just for a moment. But we unquestionably assert that these rate are profitable; although they are below the basis that we ought to be earning.

Q. You ought to get more?—A. One other point with regard to this graph No. 2 has a bearing on Mr. Duncan's suggestions that what they are really dealing with is l.c.l. traffic at minimum distance. If you will look at the line about the middle of the sheet called total freight for all railways you will see that in the year 1937 which was a period as we all know of moderate recovery

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the total freight carried by all railways in Canada was 80,000,000 tons, which is 10,000,000 less than it was in the year 1919, and lower than it has been in any period since 1919.

*By Mr. McKinnon:*

Q. In 1937, did you say?—A. Yes, sir. That was in 1937—it is under the heading 1937.

*By Mr. Bertrand:*

Q. That was as on the 1st of January, 1937?—A. Yes.

*By Mr. Howden:*

Q. Might I ask you a question there—I do not know whether you will be able to give me this information or not—have you the total amount of tonnage that was moved by the lake carriers over a period of years?—A. No, sir.

MR. JEFFERSON: The only information we have on that would be from the canal statistics of the traffic passing through the different canals. That would give you some idea of what has moved by water carriers.

*By Mr. Young:*

Q. I understood you to say that when you establish a competitive rate it is done on a basis generally which is considered profitable?—A. Yes, sir.

Q. Quite recently you established a rate to carry oil from Calgary to sense, that we are getting more back than we spend. It is not possible in the Regina of 19 cents; is that a profitable rate?—A. Yes, sir, it is possible in this sense that—

THE DEPUTY CHAIRMAN: Dividends.

THE WITNESS: Of paying interest on overhead and dividends. But I will read you in just a moment an extract from the judgment of the chief commissioner of the board which puts that admirably, much better than I could.

Just before I deal with that may I say that Mr. Duncan in dealing with that very question laid some stress on the judgment of the Interstate Commerce Commission in what is known as the pick-up and delivery case as it affects that type of service in the United States. Now, I submit that he made certain extracts—very unfairly as I submit. He quoted—I don't know whether I have the page or not—yes, on page 166 of the record he quoted certain paragraphs from the judgment and then skipped a couple of paragraphs and then he resumed. If any one reads the judgment and reads the whole quotation including the paragraphs which Mr. Duncan obligingly eliminated he will find that the phrase which he quotes on the bottom of page 166—

This cost evidence indicates unmistakably that much traffic on which pick-up and delivery is accorded at existing rates is being handled at an out-of-pocket loss which must be made up by the revenue from other kinds of traffic.

In other words, Mr. Duncan painted a somewhat misleading picture to you as to the effect of the decision.

THE DEPUTY CHAIRMAN: It has no bearing whatever on the bill itself, Mr. Walker. The evidence of Mr. Duncan would have been much more proper if he had appeared before the committee on Railways and Shipping instead of appearing before this committee.

THE WITNESS: Yes, I would think so, sir.

He did not mention, however, that the opinion of Mr. Joseph B. Eastman on which he relied was the dissenting opinion. A majority of the United States Interstate Commerce Commission in this judgment upheld the tariff submitted



by the railways in connection with pick-up and delivery service with somewhat increased minimum charges. And most important of all he did not direct your attention to the fact that the Interstate Commerce Commission in dealing with the question had complete jurisdiction over the rates of both the rail carriers and the motor carriers so that if they felt that the railways were losing money and that they should compel the railways to carry on a higher basis they were still in complete control of the truck rate; a situation which unhappily we cannot achieve in this country because of constitutional difficulties.

Mr. YOUNG: I am advised that in some cases some of the quotations were from the report of the board and in other cases they were from the dissenting judgment.

The WITNESS: Yes.

Mr. YOUNG: They were not all from the dissenting judgment.

The WITNESS: That is quite true. The passage that I say he read was in part from the judgment and in part from the dissenting opinion; and I suggest that the conclusion he draws is not borne out if you read the entire extract of the commission's judgment.

Dealing with your question as to whether or not these truck competitive rates are profitable; that point was established by Chief Commissioner Drayton in the western rates case in 1914, and he puts the rule, the justification for competitive rates, probably better than it has ever been put before or since. What he says is this: "The justification of a rate otherwise discriminatory put in force to meet water competition is very simple. For the sake of illustration I assume a railway in operation carrying on a business of a million cars; that the average return from the operation amounted to \$30 a car; that the actual average operating expenses per year are \$15, the remaining \$15 being necessary for overhead and capital charges; and that the territory in which the whole of the earnings were made was at non-competitive points, the railways not having desired to meet water competition on its lines and therefore getting no freight in the district so controlled. Under those circumstances if a rate of \$20 be put in force in a district controlled by water competition and in which an additional business of 500,000 cars are moved at an average return of \$20 with a like operating cost of \$15, how can it be said that the original shippers are in any way injured. The railway company is certainly losing nothing by meeting the water competition. The \$20 rate is in excess of the actual operating cost and a further sum of \$2,500,000 is available in the reduction of overhead charges."

I do not think that I need waste any time on Mr. Duncan's suggestion that part 5 of the bill will enable the railways to conceal their rates. It seems to me that the discussion that has already taken place on that is enough.

I come now to his last suggestion which is that if the agreed charges provision is to remain in the bill the motor truck operators should be heard by the Board of Transport Commissioners when fixing the charge. Frankly, gentlemen, that strikes me for sheer effrontery as being in a class by itself. To-day the truck operator is in a position to make agreed charges. He is in a position to discriminate in rates. And he suggests that one of the remedies be that the already over-regulated railway companies should not be permitted to make an agreed charge without his being heard by the Board of Transport Commissioners for the purpose of ascertaining that it is not an unprofitable rate to the railways.

*By Mr. Young:*

Q. I think, so far as I recall it, what he said was to prove conclusively to the Board that they were not going to lose money by it.—A. I beg your pardon?

Q. I think he went so far as to state that the railways must be made to prove that they are not going to lose money; in other words that it was a profitable

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rate?—A. Yes. Well, in point of fact, that is a situation that the Board would always inquire into; because, as I said on a previous occasion here, the Board had precisely the same jurisdiction and exercise it quite as frequently to prevent the railways from charging a rate that is too low as they have to prevent them from making a rate that is too high. I do not know that I need spend any more time on that.

Might I just refer to the question of wheat—I do not know, however, that I need deal any further with the question of flour, Mr. Stevens.

*By Hon. Mr. Stevens:*

Q. Do you object to flour being put in as a bulk item?—A. Yes, sir.

*By Mr. Young:*

Q. Not very strongly?—A. As a matter of principle I do. I do not suggest that it is a vital consideration to the railways—

Mr. YOUNG: Oh no.

The WITNESS:—whether that additional 11 per cent moves on lake and rail rates or not—

Mr. YOUNG: Don't insist on that too strongly.

The WITNESS: Any more than I am willing to admit it is a matter of very vital consequence to the milling trade whether it does move on the railways.

*By Mr. McCann:*

Q. Why make an exception there?—A. That is my answer, precisely; why make an exception of one commodity when that commodity does not admit of any special treatment.

*By Mr. Bertrand:*

Q. The main point is as to the flexibility of the Board in fixing rates, it would not be flexible enough to meet their requirements?—A. My answer to that is that the traffic has been moving year after year, a very large percentage of it, and based on rates that are not flexible. In the year I quoted, 1936 or 1937, all of it moved on rates that were inflexible. 54 per cent of it on rates regulated by the Board of Railway Commissioners, another 35 per cent on rates that were maintained by the Canada Steamship Lines on the same basis as though they were regulated, and the remaining 11 per cent moved by tramp steamers on whatever rate you want—I do not know. But I suggest that it is inconsistent for the milling companies to urge that it is a matter of any vital consequence to them to be able to negotiate a freight rate on a particular cargo of flour from 89 per cent of their traffic is handled on a stabilized rate basis.

*By Mr. Mutch:*

Q. Do you suggest that the effect of that 11 per cent is not felt in the rates which prevail, both the lake and rail and the straight rail rate?—A. I am satisfied it is not. It might be reflected for what it is worth in the profits of the milling companies, but I suggest that it has no bearing whatever on the movement of export flour; and Mr. Pitblado spent a very long time enlarging upon the importance of the milling industry and the importance in maintaining our export trade in flour.

Gentlemen, nobody has suggested and nobody can suggest that the maintenance of Canada's export trade in flour and its continued expansion is not of as vital importance to the railways of this country as it is to the milling industry itself. How else are we going to prosper?

I do not know, Mr. Chairman, that I can add very much more, unless the committee have some questions to ask.



I would like to conclude by stating that the railways are supporting this bill because in their view it is the first statesmanlike effort that has been made to solve one phase of the transportation problem in Canada, complicated as it is by the conflict between provincial and dominion jurisdiction which really lies at the root of the whole matter.

Now, we are not afraid that chaos will result. We are not afraid that any law of the jungle will prevail. We recognize that we are public servants. We recognize that it is proper and salutary that our rates and conditions of carriage should be regulated.

What we suggest is that, if we are to function properly, we should be put on terms of fair competition with the man who carries what traffic he will, who carries it on what rates he will and who, most important of all, particularly in the case of the motor truck operator, if the traffic in a given territory dries up, is in a position without saying "By your leave" to anyone, without any sacrifice of capital, simply to fold his tents like the Arabs and silently steal away to pastures that are new and profitable. And that is the position in which the trucker is at the present time.

*By the Deputy Chairman:*

Q. Do you know, Mr. Walker, if Mr. Rand desires to be heard on behalf of the railways?—A. Yes, he does. He told me he would only be a few moments.

*By Mr. McCann:*

Q. Would you care to express an opinion as to whether or not, in the event of this transport bill passing and being put into effect, it will be an important factor in rehabilitating the railways?—A. I have no doubt whatever, sir.

Q. To what extent, do you think?—A. Oh, well, that would be quite beyond me. It would be the wildest kind of a guess. As I said a week or so ago, we must necessarily feel our way. We are not going to go out and beg everybody to come in and make agreed charges, we have got to work the problem out. We have to work it out in such a way as to create no discrimination, and we will be just as zealous to work it out on that footing as anybody else can be.

Q. Will it be a major factor in rehabilitating the railways if this transport bill goes into effect.

MR. HEAPS: I do not think that is a fair question to ask the witness.

THE WITNESS: I could not say. Nobody could say, sir, whether it will be such a factor as that. It will certainly improve the revenue position of both railways. That is our hope.

*By Mr. Howden:*

Q. You do not anticipate any great modification of the rates one way or another?—A. No, sir, but I do anticipate some stabilization.

Q. Yes, but you stated in the course of your remarks that you did not think it would necessarily either increase or lower the rates?—A. Well, I was speaking more particularly with reference to the lake situation when I made that remark. But I think it is more or less true of the whole situation.

THE DEPUTY CHAIRMAN: Gentlemen, there is only Mr. Rand to be heard. Are you willing to sit to-night for an hour?

MR. HEAPS: Carried.

THE DEPUTY CHAIRMAN: Does anyone want to sit to-morrow?

SOME HON. MEMBERS: No.

THE DEPUTY CHAIRMAN: Is it agreeable that we sit to-night, then we will sit on Tuesday to consider the bill itself clause by clause.

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The WITNESS: Just a moment, Mr. Chairman. Mr. Rand has sent word to me that he feels confident that anything he might say might be more usefully contributed when the bill is under discussion clause by clause; that he does not feel he could add anything useful at the present time.

Mr. HEAPS: Mr. Chairman, if we did that for Mr. Rand, we would have to do exactly the same thing for every other person that wanted to be here.

The DEPUTY CHAIRMAN: We have all the evidence before us, and when we consider the bill clause by clause I think the consensus of opinion of the members of the committee is that we should have no interference whatever from any witness, including even the railway officials. Now, Mr. Walker, what do you think about that? If Mr. Rand wants to be heard, he had better be here to-night. But you say he does not want to be heard at all?—A. No.

The DEPUTY CHAIRMAN: Then we will adjourn until Tuesday.

Mr. HAMILTON: Mr. Chairman, when we are considering the bill clause by clause, will there be some one here from the department to deal with the legal questions?

The DEPUTY CHAIRMAN: Yes, Mr. Varcoe will be here to help the members of the committee in drafting the bill.

Gentlemen, it has been suggested that when we are considering the bill clause by clause, we should sit in camera. Some other members of the committee object very strongly to that, and it has been the custom in the past when considering bills to hold public meetings. But this is rather special. We have had all the evidence before us and in considering the bill clause by clause we are simply preparing our report because, after all, all this committee has to report is the bill as amended or otherwise. Now, I would like the consensus of opinion of the members of this committee. What do you decide? Will it be a public meeting or not?

Mr. HEAPS: I think a public meeting, Mr. Chairman.

Mr. HAMILTON: What do you mean by a public meeting?

The CHAIRMAN: An open meeting.

Mr. HAMILTON: To have a free discussion between the members?

The DEPUTY CHAIRMAN: Yes, only between the members. The press will be admitted, but we have had all the evidence that we want to examine and we do not intend to let anybody in while we are discussing the clauses of the bill if we can help it. Well, gentlemen, is it to be a public meeting?

Mr. HOWDEN: It would create a better impression, Mr. Chairman, if the meeting were open.

The DEPUTY CHAIRMAN: No rule applies; the committee decides.

Mr. HEAPS: Mr. Chairman, there is some information which I should like to have and perhaps the secretary could get this for us.

The DEPUTY CHAIRMAN: I have asked the clerk of the committee to prepare an agenda of all the conclusions, the recommendations, the draft amendments, and so on, and all this is going to be printed with the number of the page, the number of the submission and everything will be there in a chart before you while you are considering every clause of the bill.

Mr. HEAPS: There is certain information I should like to have in order that I, myself, might arrive at certain conclusions arising out of the evidence given by the various witnesses. For instance, I asked a question of Mr. Walker to-day which he was unable to answer. I have asked for certain other information from witnesses and I have not been able to get it. Perhaps the secretary might be able to get it so that all members of the committee could have it. I would like to have the amount of freight that has moved over all the Canadian railways in Canada.



The DEPUTY CHAIRMAN: What year?

Mr. HEAPS: For the last five years. I would also like to have the amount of freight that is moved by water borne traffic in the Dominion of Canada, that is, coastal traffic. I would like also to have for the committee the amount that has been spent by the government each year to maintain our system of canals, the amount of capital expenditure that the government has placed on the canal system of the Dominion of Canada, and, as far as possible, the annual charges, so far as the government of Canada is concerned, in helping to maintain water borne channels for the conveyance of traffic and the waterways within the Dominion of Canada. I have obtained a certain amount of information which would indicate that it costs the government of Canada approximately twelve million a year for that purpose, but I would like to have it a little more official so that we could have it on the record.

The DEPUTY CHAIRMAN: I think that is a tall order.

Mr. HEAPS: I think perhaps the secretary could obtain it. If the Bureau of Statistics have not got it, perhaps we might get it in co-operation with some of the officials of the railways.

The DEPUTY CHAIRMAN: You want a memorandum in writing?

Mr. HEAPS: Yes.

The WITNESS: Mr. Chairman, in view of your ruling that we are not to be heard at all during your consideration of the bill clause by clause—

The DEPUTY CHAIRMAN: It is not my ruling, it is the opinion of the committee.

The WITNESS: May I just add this further suggested amendment?

The DEPUTY CHAIRMAN: Yes.

The WITNESS: Add to section 35, sub-section 2, at the end thereof:

"An agreed charge shall be made on the established basis of rate making and shall be expressed in cents per hundred pounds or such other unit as the board may approve; and the carload rate for one car shall not exceed the carload rate for any greater number of cars."

Now, that is suggested in line with the assurance that the Minister of Railways gave the committee at the outset, that it would be made abundantly plain in the bill that the small shipper should not be discriminated against as compared with the large shipper, and that amendment, I think, will be found to cover the whole field.

*By Mr. Hamilton:*

Q. Would that cover less than carload lots?—A. Oh, no. There can be no distinction between shippers in regard to L.C.L. shipments.

Q. But supposing one shipper wanted to ship 50 kegs of nails per week, and somebody else wanted to ship 10 kegs?—A. It is so inconceivable.

*By Mr. Young:*

Q. Why is it inconceivable?—A. I cannot conceive of our making agreed charges with regard to commodities of that kind, that is all. It never even occurred to me.

Q. That is what we were discussing the other day. Supposing some shipper has quite a lot of freight, we will say 50 kegs of nails, and the other man only has one keg a week. The man who has the 50 kegs of nails a week to ship will get the agreement, but will the railway be prepared to consider giving same or substantially the same benefit to the other man?—A. Yes, sir.

Q. There is no doubt about that?—A. No doubt about that.

[Mr. G. A. Walker, K.C.]



*By Mr. McKinnon:*

Q. Volume is not a factor at all, is it?—A. No, volume has never been a factor.

The DEPUTY CHAIRMAN: Go on with your amendment, you were doing very well.

The WITNESS: That is all, Mr. Chairman

The DEPUTY CHAIRMAN: Then we shall meet on Tuesday at 10.30 a.m. to consider the bill section by section.

Mr. McKINNON: We are not meeting to-night.

The DEPUTY CHAIRMAN: No. We are meeting next Tuesday.

Mr. McIVOR: That is the 24th.

The DEPUTY CHAIRMAN: Well, the House is sitting on the 24th. That is what I understood from the Prime Minister. It is also sitting on Ascension day.

(At 6 p.m. the committee adjourned until 10.30 a.m. Tuesday, May 24, 1938.)



## APPENDIX No. 1

(Submitted by Mr. Duncan of Toronto)

EXPENDITURES ON ROADS IN PROVINCES FROM FUNDS RAISED BY OTHER  
FORMS OF TAXATION THAN REGISTRATION FEES AND GAS TAX  
EXCLUSIVE OF URBAN ROADS

	1937	1936	1935	1934	1933
Counties in province . . . . .	\$1,503,714	\$1,273,028	\$2,125,010	\$1,595,103	\$2,108,516
Townships in province . . . . .	1,169,385	1,664,516	2,354,942	1,501,742	1,776,389
Colonization roads, townships . . . . .	162,074	142,099	95,522	136,799	119,292
Northern development, Dom. of Canada	3,860,006	4,347,019	1,089,464	1,992,101	90,528
	<u>\$6,695,179</u>	<u>\$7,426,662</u>	<u>\$5,664,938</u>	<u>\$5,225,745</u>	<u>\$4,094,725</u>

## APPENDIX No. 2

(Submitted by Mr. Duncan of Toronto)

CORRECTIONS TO REPORT OF THE SUBMISSION OF LEWIS DUNCAN, K.C., PAGES  
142 TO 178 OF THE PROCEEDINGS OF THE STANDING COMMITTEE ON RAILWAYS,  
CANALS AND TELEGRAPH LINES, THURSDAY, MAY 12, 1938.

Page	Line	
142	40	For "drafts" read "graphs"
147	32	For "fair" read "unfair"
	44-7	For these lines read "increase the possibility that little businesses growing up in rural parts will take on people thus passing back into the country the benefit of cheap transportation; which in this new country"
	53	For "going on near St. Paul" read "doing business near Seaforth."
149	49	For "conditions to which" read "conditions over which"
150	26	For "acceeded" read "exceeded"
152	46	For "depreciate at the rate of 50 per cent" read "depreciate at the rate of 10 per cent"
153	16	For "there is not one day in the week" read "there is not one hamlet"
	23	For "James Mather" read "James Mavor"
153	23	For "in justification" read "no justification"
	27	For "the last topic is due I say to" read "the last cause is"
158	6	Delete "necessary"
159	2	For "giving direct employment" read "in use"
	4	For "giving" read "given"
160	4	For this line read "although they are owned by the government"
161	3rd last	For "that functions" read "with functions"
162	11	Delete "the little"
	13	For "rate" read "weight"
	17	For "one of the" read "Class I"
	18	Delete lines 18 and 19 and substitute "that to handle l.c.l. business amounting to only 3½ per cent of their gross tonnage it required 26 per cent of their freight equipment"
	21	For "breakage" read "freight"
164	51	Quotation ends after "schedules". New paragraph.



Page	Line	
165	8	For "because you divide 2,000 pounds by ten" read "That is a convenient figure to take; for you can compare tonnage costs by dividing 2,000 pounds by ten"
166	10	For "the rate was ninety-five cents per 100" read "the rate was twenty-five cents per 100"
166	11	For "the shipment" read "a shipment"
167	31	For "\$2.42" read "\$2.82"
168	16	For "saying there are people" read "saying there are not people"
	19	For "distance" read "traffic"
	35-6	For "I would say they produced people before us who may tell us what figures they have got" read "I would say they were asked to produce officials to give what figures they had; but"
	41	For "that has been followed up by decisions in this interstate commerce pickup and delivery" read "that inquiry was followed by the decision of the Interstate Commerce Commission in the Pickup and Delivery case."
171	33	For "merchandise traffic report is \$6.00" read "Merchandise Traffic Report is \$11.70 per ton"
177	13	For "with the clear proof" read "with the slight proof"

## APPENDIX No. 3

(Submitted by Mr. Patton of Toronto)

## CANADIAN AUTOMOTIVE TRANSPORTATION ASSOCIATION

42 St. Ives Cres.,

TORONTO, ONT., May 16, 1938.

The Honourable Lieut.-Colonel THOS. VIEN, M.P.,  
Chairman, Committee on Railways, Canals and Telegraph Lines,  
House of Commons,  
Ottawa, Canada.

DEAR SIR,—I should like to make the following corrections in the Minutes of the Proceedings of May 12 (No. 5), respecting Bill 31, the Transport Act, 1938:

Page 128, the 17th line from the bottom of the page, "regulation" should read "regulations"; and at line 10 from the bottom of the same page, "associations" should read "association."

Page 129, last line on page, "which" should read "what."

Page 132, 11th line from the bottom of page, "in" should read "under."

Page 133, line 10 from the bottom of the page, at the end of the word "provinces," insert a dash and substitute in the next 3 lines the following, "we have in Ontario thirty per cent of the public motor vehicles in Canada—there were 378 contract carriers out of a total of 6,892 as at March 31, 1938; that is 5.5 per cent of the total."

Page 135, 18th line from the bottom of the page, for "cannot" substitute "want to"; and at line 16 from the bottom of the same page, before "Act" insert "Railway"; in the second line from the bottom of the same page, insert "highway" before "transportation."

Page 136, line 20, "prevent" should be "at present" and on the same page, 7th line from the bottom, after "do" insert "have" and make "trucking business" read "trucks."



Page 140, line 11, insert "be" before "secured" instead of "the"; and end line 24 with a full stop; line 25 should read "We are suggesting—" instead of "we are suggesting."

Page 142, end of line 11, section I should read, "subsection (i)"; and in line 13 of the same page, after "this," insert "Act."

Yours very truly,

M. J. PATTON.

#### APPENDIX No. 4

(Submitted by Mr. Brown of Toronto)

TORONTO 2, May 17, 1938.

Please refer to file 1317-5.

Lieut.-Col. THOMAS VIEN, M.P.,  
Chairman, Committee on Railways, Canals and Telegraphs,  
House of Commons,  
Ottawa, Ont.

DEAR SIR,—One of our members in reading the record of the Standing Committee on Railways, Canals and Telegraph Lines has brought to my attention the fact that the answer which the writer gave to Mr. O'Neill appearing on page 27 of the Minutes of Proceedings and Evidence—No. 1—was apparently incorrectly stated. The words "of conveyance" which appear in the third line of the answer to the second question by Mr. O'Neill should be "and convenience" and the comma directly after the word "necessity" should be removed. It would then read "necessity and convenience." This is the term used for certificates required in the various provinces. If consistent, I would appreciate your having the Minutes of Proceedings and Evidence corrected accordingly.

Yours faithfully,

S. B. BROWN,

*Manager—Transportation Department.*



